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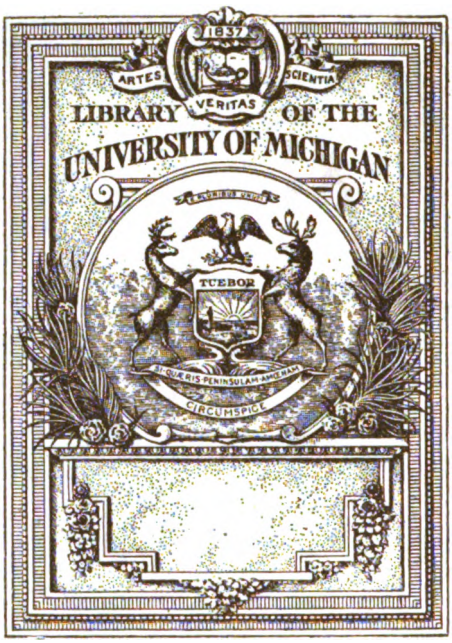

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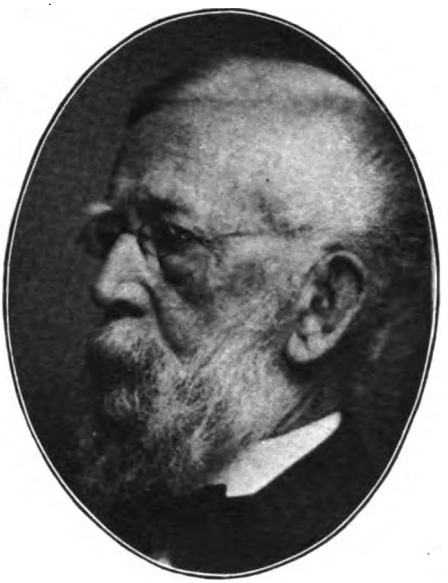

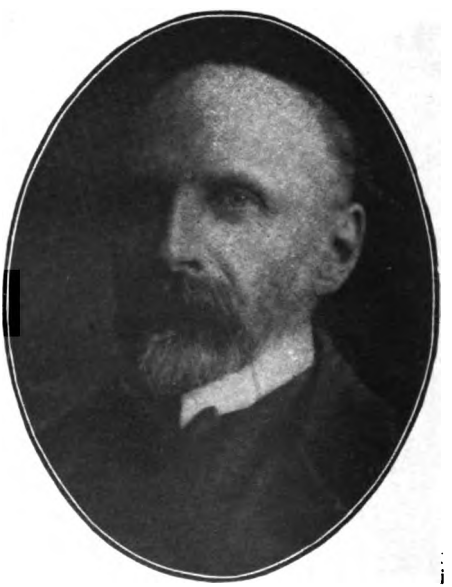

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THE PHTHISIOGENOUS MICROBE AND THE DIFFERENCE BETWEEN TUBERCULOSIS AND PHTHISIS.

Communication on the Ulterior Progress of my Work, Presented to the American International Congress on Tuberculosis announced to be held at Chicago, Illinois, the 1st, 2d and 3d of June, 1908.

BY PROFESSOR OTTO VON SCHROEN.

It is not only a pleasure, but a great honor for me to communicate the last results of my researches from 1906 to the present day, to so illustrious an assembly as the American International Congress on Tuberculosis, since in two preceding sessions of 1904 and 1906 it received so favorably my researches on the difference between tuberculosis and phthisis of the lung.

I shall mention some of the results obtained during the last two years in the three principal stages of my work, *i. e.*, on tuberculosis and phthisis in the tissues and organs; on the pure culture of the phthisiogenous microbe in the drop and *in vitro;* on the experiments made with the pure culture *in vitro* on rabbits and guinea-pigs.

In the first stage, i. e., that of the alterations produced by the phthisiogenous microbe in the tissues and organs, I must signalize *a fourth form* to the three I have already specified. I have called this fourth form *Phthisis-Pneumoniformis.* This morbous entity has a course from twelve to twenty days in individuals formerly healthy, and has been hitherto confused with Polmonitis crupale or fibrinosa. It consists of a massy infiltration spreading gradually from the apex to the basis of the superior lobe of the lung (generally the left one) accompanied by high fever, rigor, great prostration of strength, besides implication of the sensorium in form of a subcomatous state, it brings the individual inexorably to the tomb. By means of the bacteriological analysis of the

* The Chicago Congress of 1908 was postponed till 1909 by action of its officers, date and place to be fixed hereafter, and this paper ordered to be published in the MEDICO-LEGAL JOURNAL in advance of the adjourned session with consent of the author for the benefit of the officers and members and delegates to the congress.

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sputum, I have been able in two cases to make the respective diagnosis at the beginning (3d and 4th day) as well as the prognosis of the fatal disease, to the great fright of the families; this morbous form cannot be confused, neither with phthisis miliaris acuta or with phthisis florida, but with polmonite fibrinosa eterotopica, which localizes upon the basis of a group of obsolete tuberculosis of the apex of the lung, in the upper lobe of the respective lung and causes the death of the individual, for the most part *on the ninth day*. In 44 (forty-four) years I have collected more than 70 of these polmonite eterotopiche of the upper lobe of the lung upon the basis of old tubercular groups (obsolete) of the apex. But clinically, anatomically and bacteriologically, they differ from phthisis neumoniforme. Only further extensive monographs will put sufficient light between simple polmonite crupale. Polmonite crupale eterotopica of the upper lobe with obsolete tuberculosis and phthisis pneumoniforme.

A second point of special interest in the first stage of the work is that of the so-called Tabe mesenterica, or according to Virchow's classification the mesenteric type of Scrofulosis. After R. Koch's monumental discovery of the bacillus of Tuberculosis, and after the attempt of uniting Tuberculosis Phthisis and Scrofulis, we all thought of finding in the voluminous caseous masses (often very like raw potatoes) of the mesenteric and retroperitoneal glands of Tabes mesaraica, great quantities of Koch's bacilli. That expectation has been one of our most painful disappointments on the glorious battlefield of bacteriology applied to clinic. Sometimes we have found some scarce bacillus of tuberculosis, chiefly in those eruptional cases where tabes mesaraica was united to the tubercular ulcer of the mucous membrane of the intestine. But in the great majority of cases, we did not find in the above mentioned caseous masses the so eagerly sighed for tubercular bacilli. Having afterwards discovered the capsules of the tubercle bacillus, I hoped to find them (the capsules) in the above mentioned anatomic alterations. But this, too, proved to be a vain hope. After my discovery of the specific crystal of the bacillus of tuberculosis in its two principal modalities, i.e., as a white rhombus (young crystal) and as a black one (old crystal) I took up my researches in this sense, almost sure of finding at least those crystalline residua (remainders) like *caput mortuum*, analogously to what I had so easily seen in other tubercular products. The most thorough research gave me but a negative answer to this ques-

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tion. It became, therefore, a necessity to return to the ancient concept, that tuberculosis and scrofulosis are two different morbous entities, though after united between themselves, and that here really exists a mesenteric type of Scrofulosis. After my discovery of the phthisiogenous microbe, having revised the principal alterations assigned by pathology to tuberculosis, phthisis and scrofulosis I stated with surprise that the caseous masses of tabes mesaraica are almost entirely phthisiogenous microbes in all their different phases of evolution and above all of involution.

And in fact there are not only the initial phases of the phthisis microbe in all their morphogenetic explanations, but principally and with great clearness its phases of involution, and among these, the caseous one. The passage of the large anastomotic pipes, which are characteristic of the tenth phase of evolution into caseous pipes and then into deformed caseous masses, is easily seen. This direct passage of phthis. microbe into caseous substance, which I have first discovered in the walls of the lung cavity, in the liver and the spleen, is of the greatest importance for the genesis of the caseous groups, which have hitherto been erroneously thought necrotic tissue (necrosis from coagulation) by the deleterious action of the toxine of the bacillus of tuberculosis. The necrosis from coagulation of the parenchymal and the migrating cells, provoked by the toxines of the tubercle bacillus is quite different from the real caseous substances of phthisis, which are best a necrotic tissue, but the microbe itself is its caseous phase. This fact which is so very important for the doctrine of the formation of the cavity in the caseous masses of the phthisical lung, has found a new endorsement in the so-called tabe mesenterico, where this above mentioned process is much clearer for the simplicity and the minor complication with other processes than it appears, for instance in the lung. For this reason it has taken so long to find out the truth, and even to-day, after the discovery of the phthisiogenous microbe with all its phases of evolution and involution, there are still distinguished pathologists who have great difficulty of freeing themselves from all the preceding prejudices which are the negation of true etiology and differential pathogenesis between tubercular and phthisical processes.

I am able to confirm to-day with a greater number of facts and of incontestable proofs, what I have already demonstrated four years ago: *that necrosis from coagulation and real caseification* are two essentially different processes; that the caseous camps

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which are so characteristic for phthisis florida are not produced by the toxines of the bacillus of tuberculosis, but that they are the phthisiogenous microbe itself in its caseous phase; that the cavity of the lung is never originated by the direct effects of the bacillus of tuberculosis and its toxines, but by and in the flora of the phthisiogenous microbe, which in a future time will perhaps be classificated to the agues or at least put very close to them in its systematic position.

A third new fact in the first stage of my work concerns the so-called tuberculum pater of the cerebellum of children, the cause of their death towards the eighteenth month of their extranterine life.

Two forms must henceforth be distinguished of this classic morbous entity, i.e., one which is tuberculosis and the other which is phthisis. *The first, the tubercular one,* appears generally in the form of a small, more or less eggshaped tumor, sometimes of cystical appearance in consequence of its central mollifying. The thick wall of this apparent cyst, of a more greyish than yellowish color, is formed of a great quantity of small tubercles (miliari or submiliari) which contain tubercle bacilli or their morphologic and chemical derivations (rhomboid crystals) in their various phases of evolution and involution. Also the cystic liquid more or less turbid and with the tendency to a yellowish color, contains those products. *The second form, the phthisiogenous one,* often of a larger extension, of an irregular configuration, of a more intense color, in which grey spots alternate with larger caseous spots of a yellow color, owes its origin to the phthisiogenous microbe in its different phases of evolution and involution. For the present. I leave the question open without daring to give a decisive answer, whether also the mixed form exists of tuberculosis and phthisis as we see it in the lung in the suprarenal capsules, in the peritoneum and in so many other organs. I only point out for the present the existence of the before mentioned two pure forces, i.e., the tubercular one without phthisiogenous microbe, and the phthisiogenous one without tubercle bacilli and their morphologic and chemical derivations. These new facts drag us forcibly into the so interesting and in the last years so deviated chapter of the hereditariness of tuberculosis and phthisis. Lack of time and of space do not allow me to treat this argument presently with that scrupulous and conscientious analysis which it requires. I cannot, however, do less than declare that I am convinced

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of the heriditariness and the congenitura of tuberculosis as well as of phthisis, and this in contradiction of the opinion I professed still four years ago with respect to phthisis, which I then believed susceptible neither of heriditariness nor of congenitura. I will point out something concerning that in one of the next chapters, that is to say, in the one of the so-called tuberculosis of the epididymis, observations, which if they are not yet the certain proof of the heriditariness and the congenitura of tuberculosis and phthisis will, however, suffice to neutralize some of the doubts which were till now justified. *A fourth new point* of my last researches in the first stage of my work on the phthisiogenous microbe is the one on the so-called *tuberculosis of the testicle,* or better said of the epididymis. I do not put in doubt the existence of tuberculosis of the epididymis, though till now I am not in possession of a case of pure tuberculosis of that organ. I affirm, however, that there are cases of the so-called tuberculosis of the testicle in which tubercle bacilli with their morphological and clinical derivations are sought in vain and in which the real pathogenous factor is represented by the phthisiogenous microbe. It will not be without interest, that I have found, contrary to all my suppositions, the tiny germs of the phthisiogenous microbe in the head of the spermatozoi of the testicles infected by that fatal disease, while I have not yet succeeded in discovering in the said head, the tiny germs of the tubercle bacillus. I remember here what I have published on the capsulae plasmodiofore of the first ciclus of the bacillus of tuberculosis, and on the smallest germs contained in them and which are, perhaps, the fortieth part of the volume of a tubercle bacillus and become tubercle bacilli in the culture in drop under Schroen's globe. As long as it was erroneously maintained, notwithstanding my demonstrations made in 1884 at the Congress of Magdeburg, the tubercle bacillus to be the same as smallest germ and as grown up individual, it was not admissible for reason of measure, that the tubercle germ could be contained in the head of a spermatozoe. With my researches in this sense, our objective science has made two steps forward, the one for tuberculosis, showing the tiniest germs of its bacilli, the other for phthisis, showing the existence of tiny germs of the phthisiogenous microbe, on the nature of which I cannot now dwell upon, in the heads of the spermatozoi.

A fifth argument belonging to the first stage of my work on the phthisiogenous microbe is that relating to the so-called tubercular

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salpingitis. Which and how many of these are pure tuberculosis, which and how many pure phthisis, which and how many mixed forms of tuberculosis and phthisis, I dare not state with precision for the present. I affirm, however, that there are salpingitis, nowadays still classified among tubercular processes, which are pure phthisis, or with other words, forms in which no trace whatever is to be found of tubercle, bacilli and their crystallized morphologic and chemical derivations, but only the phthisiogenous microbe, the generator of all those caseous masses which fill in those cases the tuba fallopi and which augment their transversal diameter quadruply. In these cases are to be seen with the aid of the miscroscope the folds of the mucous membrane, transformed in so many compounded papillas, in the niches of which the phthisiogenous microbe nestles in all its most characteristic phases of evolution and involution. Therefore, the phthisiogenous microbe exists not only in the masculine sexual apparatus, but also in the female one. I am just now working on tuberculosis and phthisis of the uterus and the ovary.

A sixth surprise in the first stage of my work has been given by the study of the lymphatic glands of the neck, called formerly scrofulosis and later on tuberculosis or tubercular glands. Above all two forms must be distinguished, namely: a first one, which is real tuberculosis, residing in the anterior and posterior lymphatic glands. The glandular swelling in this form is not so prominent in comparison to that in leucomia, in the lymphrosarcoma, in the morbus of Hodgkins, and in the so-called caseifying lymphoms of the neck, the last ones being, as we shall see, real glandular phthisis, similar to the phthisis of the tabe mesenterica.

This form, which flourishes with preference between the sixth and eighteenth year, has been classified by Virchow to the first type of scrofulosis, to the so-called cutaneous scrofulosis, or cutaneous type of scrofulosis. This process tends to suppuration and finishes after the elimination of the infected gland by means of the purulent process. If a similar gland is carried away with a knife, its interior is found to be studded with tubercle bacilli. We have, therefore, to do here with a form of the so-called glandular scrofulosis, which is real tuberculosis. The other forms, which consist of great glandular packets which afflict the lateral regions of the neck—that is to say, between the sixteenth and thirtieth year, has no tendency to suppuration, but to central caseification. This is the form from which scrofulosis takes its

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name for the resemblance of the individuals infected by it, with a hog's neck (susscrofula). These forms often disappear after the use of iodine preparations, chiefly of hypodermic injections alla durante, in the same manner as the analogous form of mesenterical and retroperitoneal localizations. Above all, when such medicinal cure is accompanied by a stay in dry and sunny air, by a moderate hypernourishment, sea baths in the Mediterranean or warm baths of chlorid of iodium.

This form is phthisis. All the most conspicuous phases of evolution and involution of the phthisiogenous microbe are to be seen with the microscope. The most classical cultures in vitro of the phthisiogenous microbe are taken from this form. This is the form in presence of which I have been obliged to abandon the idea of phthisis being incurable. It is true that I have microscopical preparations already of three years ago, which give me the demonstration that not only tuberculosis but even phthisis can become obsolete; as there is also no doubt that cavities of the lung of doubtless phthisiogenous origin, are susceptible of relative healing, but these two last facts are certainly less palpable and consequently also less impressing than the disappearance of large caseous lymphous in the region of the neck. With these facts a notable difference between two processes is already delineated from this moment at the therapeutical horizon of tuberculosis and phthisis, in the sense that the phthisiogenous microbe in its phase of involution as well as in the one of evolution is most sensible to the preparations of iodine; whereas they have no influence on the tubercle bacillus. And also in this fact there is an essential difference between tuberculosis and phthisis, as well as in the great intolerance, prompt to immediate malefireaction of the phthisiogenous microbe towards the first antitubercular lymph of Koch.

A seventh important result is the first stage of my work on the phthisiogenous microbe concerns lupus. This pathological alteration of the skin and of the mucous membranes was considered also by me as one of the fundamental stones of Koch's doctrine on tuberculosis. I, too, believed lupus to be one of the forms of tuberculosis.

However, I have been obliged to persuade myself that lupus is phthisis of the skin. In fact, the ulcerated lupus camp consists of a great quantity of tiniest cavities produced by the phthisiogenous microbe and clothed with it. On the surface of those ever-

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growing cavities in consequence of the deepening of the proliferous microbe can be or cannot be found the bacillus of tuberculosis exactly as in the cavities of the lung, which formed exclusively by the phthisiogenous microbe, can or cannot contain superficially the bacillus of tuberculosis. I have described this fact four years ago and this fact has had just now a clamorous confirmation by the following circumstance.

The professor of pathological histology, Guiseppe Pianese, known in the scientific world by his numerous discoveries in normal and pathological morphology, had charged two assistants of his with gathering in the hospital of the incurable a certain number of tubercular sputa (expectorations) with the intention of using them in his exercises on pathological histology for the demonstration of the bacillus of tuberculosis. They gathered eighteen nummular sputa from individuals infected with cavities of the lung. Only in two of these eighteen sputa are to be found the bacilli of tuberculosis. Although convinced that this proportion is not the usual one among sputa of cavities containing the bacillus of tuberculosis or lacking it, that fact made a great impression on all, especially on those who to the present day were not quite deprived of some doubts about the solidity of my doctrine in regard to tuberculosis and phthisis. And to return once more to lupus, I must also mention that the initial tiny germs of the phthisiogenous microbe deepen in the contiguous tissue of the exulcerated lupus to a never suspected distance. This makes it easier to understand the enormous resistance opposed by lupus to its definitive healing.

And I think this is enough at present about my ulterior studies of the last two years in the first stage of my work on the phthisiogenous microbe in the tissues and the organs, although I have still much to say on various important organs, as the spleen and the suprarenal capsules and on ovareous tissues, among which in the first instance, the bony tissue. I put it off for another time, convinced that for the decisive studies of so great a chapter as that of tuberculosis and phthisis there will be need of several lustres.

Also in its second stage, i.e., the one respecting the culture, the work on the phthisiogenous microbe has made some progress. I have repeated the pure culture in vitro on various grounds (soils?) or of culture, taking the germ now from the sputum of cavities, now from the sputum of phthisis pneumoniforme, now

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from the caseous groups still closed and solid of the so-called tisi florida, now from the wall of cavities of the lung formed by the single phthisiogenous microbe without the symbiosis with the bacillus of tuberculosis, now from caseous groups of lymphatic glands infected by the phthisiogenous process. The result of these cultures has always been the same, when the germ had passed through the method of the bones of petri, and when the seed, very scarce in its disseminations, had rendered easy the complete isolation and the clear distinction of the different rising groups.

As for the cultures in the drop, especially those under my sterilized globe (described already in 1891), and prolongated according to my method to six (6) months and twelve days, they have not only reconfirmed the identity with all the chief evolutive phases described by me in the lung, the liver, the spleen, the lymphatic glands, etc., but they have spread a new and splendid light above all on the initial phases of the phthisiogenous microbe and its passage from the oval cell into the first plain and afterwards arborescing pipe.

Speaking of the initial phthisis, I must remember, first of all, the white germinal substance I had already found three years ago in the cells of the tissues invaded by the phthisiogenous microbe, especially in the more peripheric zone of the invasion. This white germinal substance seems to me to be identical to that of the spores, differing, however, from the same in the quantity of its appearance. In fact, it is sometimes dot like, in the citoplasma of the epithelial cells of the lung and in the cells (small linfociti mononucleari) of the lymphatic glands, whereas at other times megaterium. If this white germinal matter is limited by a membrane, this must be exceedingly thin, because of its not evident constatation. One of the forms of the morphogenesis of the phthisiogenous microbe is the one of the just mentioned white germinal matter in the sense that at its periphery appear tiny colorable grains, the union of which engender the first threads of the microbe. I say that this is one of the forms of the genesis of the phthisiogenous microbe, as there exist several other forms of its primitive formation, at least different in appearance, i.e., the endotabaria, the endocapsulare, and the one in the sporangis, similar to cistocarpi in certain algues. As long as all these observations were only made in the tissues infected by phthisis those who are little experienced in morphology could always raise

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doubts, especially in our days, where the profound connoisseurs of morphogenetical things with large knowledge and views become fewer and fewer. But after having reproduced all the mentioned phases and forms in the culture, in drop under my globe, and partially in the closed hanging drops, even the most malevolent have become mute. I limit myself to these few winks on the progress made in culture in the last two years, whereas the many particulars of this second stage of the work form a large carnography. I will only mention that the observation of the genesis endotuberica of the white germinal substance is one of the most classical points of the work come to light, by means of the method of the culture in drop, under my sterilized globe.

The third stage of the work on the phthisiogenous microbe which is the one of the experiments with the culture on animals, is still at its beginning, because I have still much to do with the first two stages, the finishing of which seems to me more indispensable than any other thing, especially because the discovery of the difference between tuberculosis and phthisis with their respective microbes, is very different; the one from the other, as the mole from the elephant, belongs to the first stage. And what need is there of any ulterior discussion about tuberculosis, if first we don't see clear in another series of pathological processes today still classified to tuberculosis and for which I already perceive another origin; as, for instance, certain affections of the bones, and the so-called diffused tuberculosis of the peritoneum or certain diseases of the articulations, especially of the knee? There is no doubt that in all three can be found the bacillus of tuberculosis, but in none of them the just mentioned bacillus is obligatory. The surgeons have been knowing this for some time already, that often in the pus of a cold abscess (either from congestion or migrating) deriving originally from the body of a vertebra, the bacillus of tuberculosis is not to be found, neither its capsules nor its crystals. If animals for experiment are inoculated with purulent matter from such an ossifluous abscess, caseous groups are easily produced between 30-40 days, welcomed by the clinic with victorious joy and hitherto believed to be tuberculosis, while in the majority of the cases they have nothing in common with tuberculosis, and certainly they never produce the real pure tuberculosis milaris, but in the most favorable case only a mixed form of tuberculosis and phthisis. These and other similar cases certify how fallacious can be the experiment, in all those cases in which

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one does not act with full knowledge of the cause, and how erroneous is the opinion still largely supported by those who have little experience in similar facts, i.e., the most decisive thing in fact of pathology and etiology to be the experiment. I will not deny that the experiment is in certain circumstances of classical importance. But when? When cause and effect are known with absolute certainty, or in other words, when one knows with precision with what matter the experiment has been made, and when one knows with absolute certainty what has been produced with the matter of experiment. It is but to-day that one begins to understand with clearness that the history of the experiments with caseous matters is the history of great errors. While one believed of having produced with them tuberculosis in the great majority of the cases, the product was phthisis either pure or not pure, but never pure tuberculosis. But even producing with a pure culture of the phthisiogenous microbe real phthisiogenous caseous groups in the lung or other organs, this is of no value till the microscopical research is confirmed by the macroscopical diagnosis. And in fact, caseous groups can be produced also with other pathogenous agents which, with the bare eye, cannot be distinguished from those of phthisis, and which must wait for their precise microscopical diagnosis.

In the meantime I have established 47 different experiments for clearing much more, the difference between tuberculosis and phthisis. I will only mention a few from which I expect some result, as, for instance, the one in which the inoculation of pure culture of tuberculosis should precede, and should be followed, by that of the phthisiogenous microbe and vice versa. In another series of experiments, the toxins of the bacillus of tuberculosis should be injected first, and then the pure culture of the phthisiogenous microbe and vice versa. Another series of experiments should aim at the tubercular infection by means of pure culture, being followed by an inoculation of the different facultative and obligatory pio geni, as the idea always rises again that phthisis might be an acuted tuberculosis from sepsis of coccical origin, opinion which lacks every positive foundation, as the still solid and close caseous camps of florid phthisis never contain neither stafilococchi, nor streptococchi, nor the tetrageno, nor any other microbe, except in the certain cases the one of the tuberculosis. Of the immense quantity of experimental work rises to-day before us in the third stage of this endless research, very little has

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been done yet. The questions I have been able to answer sperimentally are the following:

1. Does a pure culture of the bacillus of tuberculosis really exist? My answer is affirmative. To many this question will have seemed useless. Nevertheless, it was justified by the fact that many cultures of the bacillus of tuberculosis, which I had received as pure cultures, have afterwards shown themselves, at the rate of my new method of coloration for the phthisiogenous microbe, infected by it.

2. Does there exist a genuine tuberculosis in the tissues and organs, and a pure sperimental tuberculosis, or is it immediately associated with the phthisiogenous microbe? Also to this question I can answer affirmatively in the sense that there really exists a genuine tuberculosis and a pure sperimental one.

2. Does the pure culture of the phthisiogenous microbe exist without the tubercle bacillus? Also to this question I am able to answer that natural phthisis, as well as sperimental phthisis, exist in a pure state.

4. What are the pathological alterations I have sperimentally produced in animals and in which?

I have made the subcutaneous inoculation in the back region of the guinea-pig and I have subsequently obtained alterations in the internal organs, chiefly in the lung, the spleen and the liver, alterations which are identical to those which are found in the initial phases of natural human phthisis, forms, which microscopically are hardly to be distinguished from those obtained in the culture in drops. Besides I have made endovenous injections (in the safena) on rabbits, which by means of the indicated hematogenous way have produced in the above mentioned organs, but especially in the lung, pathological alterations analogous to those of natural human phthisis.

And here it will be necessary to remember that in the evolution of phthisis of the human lung, three principal epochs must be distinguished, namely:

A first hyperplastical one, in which the cell elements invaded by the phthisiogenous microbe increase in volume, chiefly in their citoplasma, but also, though in a minor degree, in their carysplasma; a second destructive one, in which the hypertrofical cell elements, which are also partially hyperplastical, perish, absorbed and destroyed by the growing filiform phthisiogenous microbe. In this epoch the phthisiogenous microbe substitutes itself little by

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little, like a real parasite, to the tissue of the organ; a third degenerative one of the microbe itself, in which it is subjected to its involution by means of the caseification and the mucous degeneration. It is in this period that the cavity begins in the human body. The mummular cavity sputum is for the most part the phthisiogenous microbe itself, reduced by the above mentioned degenerations, to caseous detritus and mucous. This phase of the cavity so common to mankind, is not habitual to guinea-pigs and rabbits, not even when caseous detritus from pure phthisis or from phthisis mixed with tuberculosis is inoculated in the above mentioned animals.

It will be necessary to extend the experiments to monkeys, being these in the decourse of phthisis nearer to mankind, than guinea-pigs and rabbits.

I conclude now with the affirmative:

1. That tuberculosis and phthisis are two different morbous entities, having each a particular microbe.

2. In the great majority of cases, phthisis is preceded in mankind by tuberculosis.

3. Primitive or genuine phthisis exists, without the preceding of tuberculosis.

4. Four are the princapal forms hitherto known of phthisis, i.e., the most acute phthisis pneumuniforma, phthisis miliar is acute, phthisis florida (quick consumption), and chromi, slow phthisis.

5. Like tuberculosis, also phthisis may become obsolete in the lung.

6. Phthisis and tuberculosis can be hereditary and congenious.

7. Tabe mesenterica is in its essence a glandular phthisis.

8. Lupus in its chief part is phthisis of the skin.

9. The cavity of the lung has its genesis from phthisis and not from tuberculosis.

10. Two distinct forms exist of the so-called lymphatic glandular scrofulosis, the one which is tuberculosis with the tendency to suppuration, the other is phthisis with the tendency to caseification.

11. The existence of a caseous salpingitis produced by the phthisiogenous microbe.

12. The existence of two distinct forms of the so-called tuberculum pater of the cerebellum, the one is tuberculosis, the other phthisis.

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13. The concept that phthisis is but tuberculosis, acuted by the symbiosis with piogene microbes must be abandoned.

14. The specific crystal of tuberculosis is a rectangular rhomb.

15. The specific crystal of phthisis is an hexagonal prism.

16. The tubercular rhomb appears in the sputum of the initial tuberculosis of the lung before the bacilli, and as such it is of great value for the precocious diagnosis of tuberculosis.

17. Iodine preparations of little influence on the products of tuberculosis are very efficacious in glandular phthisis.

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A QUARTER OF A CENTURY OF MEDICAL JURISPRUDENCE.

BY CLARK BELL, ESQ., LL.D.

A Retrospect of the Science of Forensic Medicine from June, 1883, to June, 1908, will best illustrate the progress of Medical Jurisprudence.

No. 1 of Vol. I of the MEDICO-LEGAL JOURNAL was published by the same Editor and Publisher that brought out No. 4 of Vol. XXV, in March, 1908, completing and rounding up twenty-five volumes. This quarter of a century of the work of the most active, energetic of the students of the science was published by the Editor while in the presidential chair of the Medico-Legal Society, at the beginning, and at the close of twenty-five years of constant unremitting work in which he must stand as one of the foremost students of that science, not only in the Western Hemisphere, but on the continent of Europe, or in Great Britain or any of the countries of the globe.

He had held then the presidential chair of that society four terms before the Fifth Inaugural which appeared at the beginning of the MEDICO-LEGAL JOURNAL which now commences its twenty-sixth year in June, 1908.

He had thrown all his force, enefgy and enthusiasm into the work of that society since he came to its head in 1872, and the Fifth Inaugural here reproduced after twenty-five years, shows best, what the status of that body then was, and the intervening years can best show the progress of that science, when we regard the changes that have since occurred.

The names then active in its work, who stood shoulder to shoulder with the executive, to-day have most or many of them "rested from their labors."

Their work remains, their memories remain. Their names will be inseparably connected with this work, of which the MEDICO-LEGAL JOURNAL must ever remain a record of a most eventful era in the history, of the progress and the usefulness of the science, to which it has been devoted.

The Editor of this volume looks backward over this record of

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that part of his literary life, devoted to Medical Jurisprudence and its progress, with a peculiar pleasure and a pardonable pride.

Be believes that his fellow-workers of the past, and his co-workers of the present will both thank him, for the light such a contrast must give to all students of the science.

Vol. XII of Bell's Medico-Legal Studies will appear in advance of other volumes since Vol. VIII, the delays incident to their appearance, will be explained later, all are done except Vol. IX, which is nearly so, but which, when completed will be devoted wholly to the Judicial History of New York, not yet quite finished and previously appearing in that journal.

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FIFTH INAUGURAL ADDRESS

OF

CLARK BELL, ESQ.*

GENTLEMEN OF THE MEDICO-LEGAL SOCIETY: Permit me to thank you for the renewed expression of confidence manifested by my re-election to preside over your deliberations for another year, and to assure every member that I shall spare no effort to advance the interests of this Society, having a high ideal of its true mission in the general advancement of the Science of Medical Jurisprudence.

In carrying out the various measures enunciated in my last inaugural address, so favorably received and endorsed by the body, I have been actuated by the single purpose of placing this Society prominently in that position, with relation to both professions and the science it represents, it has the right to occupy; and the record of the past year will, I think, justify the efforts since made to increase the usefulness of our labor and widen the field of our influence.

The enrolled membership of the Society at the commencement of the year just closed was 177—94 physicians, 77 lawyers, and 1 scientist, exclusive of corresponding or honorary members. A considerable number of members have been so only in name, and have taken little interest in our work; and some of them have been dropped from the list. The roll now

*Delivered January 4th, 1883.

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contains 267 names, 133 lawyers, 132 physicians, and 2 scientists, upon its active list.

Without making improper distinctions, I know it can be but a just source of pride to every member who has the prosperity of the Society at heart, to observe among the recent accessions the names of Judges Noah Davis, Charles Donohue, Wm. H. Arnoux, Miles Beach, Freeman J. Fithian, G. P. Hawes, David McAdam, Jas. B. Sheridan, Marcus Otterbourg, of the Judiciary; Professors J. W. S. Arnold, Fordyce Barker, T. A. McBride, F. N. Otis, M. A. Pallin, Stephen Smith, F. R. Sturgis, A. H. Smith, and J. W. Wright, who are, or who have been, occupying Chairs in our Medical Colleges, not to name many other gentlemen occupying distinguished positions at the bar and in the medical profession. We now have three honorary and six corresponding members; among the former, the honored name of Ernest Chaudé, President of the Medico-Legal Society of France, and author of valuable works upon Medical Jurisprudence. Arrangements are in progress for adding to this list of honorary and corresponding members distinguished gentlemen from Great Britain, France, Germany, Italy and other countries, for the purpose not alone of extending our influence abroad, but of enriching our archives by their contributions.

It is hoped that the completion of the great work of placing in our harbor next Autumn the colossal Statue of Liberty, donated to our country by the people of France, through the agency of Mr. Bartholdi, may be made the occasion of a visit by representatives of the French Society to this city as our guests, while I have the promise of that eminent gentleman, Dr. Henry Maudsley, to visit us next summer if his health permits.

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The Library, according to the Report of the Library Committee, submitted this evening, shows an increase since February 1, 1882, of 376 volumes and 564 pamphlets. A list of the donors is appended, conspicuous among whom is the generous donation of Mr. E. N. Dickenson, of the New York Bar, who has become a patron and one of the founders of the library. Valuable contributions have been made by Dr. Fordyce Barker, Dr. A. N. Bell, Mr. Appleton Morgan, Dr. J. G. Johnson, Dr. F. N. Otis, and other gentlemen, as will appear in detail by that report.

Regarding the success of the Library as now well nigh assured, I hope those members who have not sent in their volumes for the past year, and such of the members as have not placed their names upon the list of voluntary contributors to the Library, will do so at once. The contributions made to the Library, under my previous administration, were: In 1873, 81 volumes; 1874, 82 volumes and 7 pamphlets; 1875, 364 volumes and 117 pamphlets.

A few volumes were donated, and some volumes purchased in the subsequent years, but I have not been able to find any record of the exact number.

In 1882, 376 volumes and 564 pamphlets were contributed, making a total of 903 volumes and 688 pamphlets during the years I have given the matter attention, and which I regard as a gratifying exhibit.

It is confidently hoped that the ensuing year will be still more gratifying in results, as the volumes already promised by members, and the exchanges anticipated for our published volumes, indicate valuable additions.

The library appeal has been and will be widely diffused through both professions, and the public press of the coun-

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try are seconding the work of our Library Committee in the kindest manner.

Of the Society's papers, Vol. II. has been issued, and 100 copies have been taken by the Society for exchange with kindred and scientific societies and libraries, at a cost to the Society of $300. Vol. III. will appear in due course, the delay being occasioned by the difficulty the Committee has experienced in obtaining from their authors copies of some of the papers which should appear.

The current transactions have appeared in both medical and legal periodicals, without cost to the Society. The thanks of the body are due to *The Sanitarium, The Medical Gazette, The Daily Register, The Journal of Nervous and Mental Diseases, The Journal of Neurology and Psychiatry, The Medical Record, The National Druggists' Journal, The Albany Law Journal, The New York Herald, Tribune, Times, Sun, World, Commercial Advertiser,* and the city press in general, for important favors and notices of its proceedings.

The papers of the year will be issued to members, free of charge, who are in good standing, as soon as sufficient matter accumulates, together with a résumé of the discussions of the mor important papers.

The present financial condition and prospects of the Society are ample to defray all the current expenses, provide for the completion of Vol. III., and continue the publication as now initiated of all our future papers and transactions.

Dr. W. A. Hammond, having asked to be relieved from further service upon the Committee of Publication of the papers of the Society, I recommend that committee be enlarged by two names, and suggest the name of Dr. Edward Bradley in the place of Dr. Hammond, and that Professor

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F. R. Sturgis and Mr. R. B. Kimball be added to that committee.

The Treasurer's report for 1881 showed a balance in hand, at the date of his report, of $34.13. Total receipts from all sources for the year, $1,410.70; total disbursements, $1,171.82; balance on hand December 31, 1882, $238.85. We begin the year 1883 with $238.85 in the treasury. The disbursements for the year will be less than for 1882, by a saving in rent and in the item of $100, retained by the secretary for alleged amount of salary, and $43.60 charges for collection of dues. The income will be augmented by the increase of initiation fees and dues, and the probable increase of membership.

Legislation.

The subjects of greatest prominence, deemed worthy of bringing to the attention of the Legislature, are:

1. The question of Reforms in the Lunacy Laws of the State regarding the committal and care of the insane, and the proper protection of the insane in their legal rights. The State Senate adopted the following resolution January 4, 1882: *"Resolved,* That the Attorney-General and State Commissioner in Lunacy be requested to report to the Legislature such amendments to the laws relating to the insane as may be necessary for the better perfecting of the same, and that they be further requested to make such report at as early a day as practicable."

This resolution has been referred by the Attorney-General of the State and the State Commissioner in Lunacy, to this Society, and is now before the Permanent Commission,

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whose action upon these important questions comes before you this evening in a formal report.

2. The question of reform in the laws relating to the office of Coroner and the adoption of a new system of investigation and proceeding in all cases of sudden death, when reasonable cause exists for the belief that the cause of death was by violence, or has resulted from other than natural causes. This question has been before this body for some time, and the Society stands committed in favor of a substantial and radical change in the existing law, and the appointment of medical men skilled in the investigation of such cases, to take charge of the medical questions involved, and of having the legal questions determined by a court of competent power and jurisdiction. The Medical Society of the State of New York, on the invitation of your committee at the session of 1881, memorialized the Legislature in favor of reformatory legislation of this character. A competent committee of this Society has this subject now under consideration, and has made a formal report. I recommend that the subject be again brought to the attention of the Legislature, and that the State Medical Society be again asked to co-operate with us in asking legislation favoring the necessary change. I also recommend that the Society instruct the Committee on Coroners to frame and report a bill to be submitted to the present Legislature in accordance with the previous action of the Society and its executive committee.

3. Defining and settling the law as to who are experts, and what is proper expert testimony in criminal trials, especially when the defence of insanity is interposed, and defining by appropriate legislation the proper course and limit of such a defence in criminal cases.

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4. Regulating the proper sanitary supervision of our public schools. This subject is in the hands of a competent committee, who will report during the session of the present Legislature for the action of the Society.

THE PROGRESS OF THE SCIENCE OF MEDICAL JURISPRUDENCE was signalized by the International Medico-Legal Congress held in Paris in August, 1878, under the auspices of the French Government, and at the instance of the Medico-Legal Society of France—M. C. Devergie, President.

Invitations were sent to England, Italy, Spain, Austria and Hungary, Norway and Sweden, Belgium, Denmark, Holland, Greece and Switzerland.

The following questions were considered:

I. Experts in medicine and the medico-legal expert.

II. The value of sub-pleural Ecchymoses (*sous plurales*) in legal medicine.

III. Do the eye-lids close themselves spontaneously after death, and under what conditions?

IV. The intervention of the medical expert in questions of wounds or fracture of the skull.

V. Medico-legal questions relative to the employment of anæsthetics:

a. Who has the right to use them?

b. Indispensable precautions.

c. Responsibility in case of death or serious accident.

d. Crimes committed while under their influence.

VI. Medico-legal questions regarding Divorce and its causes.

VII. Viability in forensic medicine.

VIII. Of survivorship in legal medicine.

IX. Of life insurance in its relations to medical jurisprudence.

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Some of the papers read were:

Experts in Courts of Justice—by the President M. Devergie. Discussed by Daremberg, Devergie, Gubler, Laborde, Leon, Galippe de Grosz.

Laws relating to the Insane in Hungary—by M. de Groz.

Intervention of the Medical Witness in Cases of Wounds and particularly Fractures of the Cranium—by Dr. Louis Penard. Discussed by Laborde, Devergie and Penard.

Employment of Anæsthetics—by M. le Doctor A. Lutaud. Discussed by Rottenstein Lacassagne, Comby, Gallard, Legroux, Lutaud and Devilliers.

Artificial Delivery after Death—by M. le Dr. Thevenot. Discussed by M. Devilliers, Thevenot, Chautreine, Chaude, Gallard, Comby and Lutaud.

And many other papers and subjects of great interest were discussed during a session lasting through three days.

Our Society was not represented. The Congress was of great importance to Forensic Science.

The French Society.

The Bulletin of the Medico-Legal Society of France, Tome VI, issued in 1881, with the proceedings of that body for the years 1879 and 1880, commencing with the Session of January 13, 1879, and ending with the Session of Dec. 13, 1880, under the Presidency of M. Devilliers, has reached me since my last Inaugural Address was pronounced.

It is an interesting volume of 566 pp., and contains the following valuable papers:

Medical Jurisprudence, by M. Emile Hortleloup;

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Poisoning by Arsenic, by M. Mayet;

Inaugural address of M. Devilliers on taking the Presidency;

Fractures of the Skull, by M. Mory;

Suicide or Assassination? by Dr. Schœnfeld;

Report upon the case of an infant—supposed to have died from suffocation, by M. Devilliers;

Illegal use of the forceps, by M. Alphonse Jaumes;

Abortion by the injection of water in the uterus, by Dr. T. Gallard;

Chemical and Histological examination of placenta, by Dr. Maurice Longuet;

The legal responsibility of deaf mutes, by M. Lunier;

A case of murder, by M. Polaillou;

Cremation of the Dead, by M. Ladreit Lachamiere;

The Medico-Legal value of Sub-Pleural Ecchymoses, by M. Legroux;

The Practice of Pharmacy by Physicians, by M. Ernest Chaude;

Attempted Abortion, by M. le Dr. Cauchois;

Attempted Assassination, by M. le Dr. Motet;

Invalidation of a Will, by M. Blanche;

Suppression of part of the evidence furnished by an examination of the genital organs of the mother and the hair of the child, by Dr. T. Gallard;

Advertisement and Sale of Secret Remedies, by M. Mayet;

Biographical Notice of M. Devergie, by M. P. Brouardel;

The evidence furnished by the Uterus in the White Chapel Case in London, by M. le Dr. Lutaud;

Study of the Method of Preserving Foot-prints of Men or Animals as Evidence, by M. Alphonse Jaumes;

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Obituary Notice of Alphonse Chevalier, by M. le Dr. T. Gallard, and an Oration by M. Devilliers;

Notes of Criminal Cases, by M. le Dr. Severin Caussé;

The Medical Legal Value of the Uterus as to Previous Pregnancies, by Dr. A. Lutaud;

"Sunstroke," by Alphonse Jaumes;

Obituary Notice of A. Chevalier, by T. Gallard;

Report upon a Case of Murder, by le Dr. A. Leblond;

The Duty of Physicians Regarding Certificate of Births, by M. Chaude.

Year 1880.—Acute poisoning by Chlorate of Potash, administered by mistake, as a purgative, instead of Sulphate of Magnesia, by le Dr. A. Manuonez;

Case of Poisoning by Alcohol, by M. Le Blond;

Physiological Experiments upon the Cadaver of Prunier, who was decapitated—by Dr. Evrard and MM. les Drs. Decaissee;

Poisoning by Carbolic Acid, by M. Wiess;

Critical study of the physical evidences of Pederasty, by P. Brouardel;

Report upon the paper of MM. Petel and Labiche, as to the proper method of examining seminal stains, by MM. Bontmy and Brouardel;

Sub-Pleural Ecchymoses, by M. le Dr. Lemoine and M. le Dr. P. E. Chevalier;

Accidental Poisoning, produced by injections of Carbolic Acid, by M. Ogeune;

Report upon a case of Infanticide, by M. le Dr. Le Blond;

Medico-Legal Notes in Clermont, during years 1869 to 1876, by M. le Dr. Fredet;

Poisoning by Phosphorus, by M. Vermeiul;

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Accidental Poisoning by the Bi-Chloride of Mercury, by M. Berthelemy;

On the development of Alkaloids in the Cadaver or Ptomaines, MM. Brouardel and Boutmy;

Study of Drowning, with reference to entrance of water in the blood and lungs, by MM. Brouardel and Ch. Vibert;

Accidental Poisoning by Neutral Sulphate of Atropia, used as an eye-wash, by le Dr. G. de Beauvis;

Poisoning by Strychnine, an elaborate and exhaustive paper, by M. A. Boyer.

I received only a few days since the first part of Tome VII., a small volume of 100 pages, commencing with the administration of the French Society under the Presidency of Monsieur Ernest Chaude, in January, 1880, and furnishing the record of its labors for the major part of that year.

Its papers are the retiring address of M. le Dr. Devilliers, who had occupied the chair for two years, who paid a tribute to their illustrious dead (Devergie and Chevalier), called attention to the distinguished names that had been added to their corresponding list (MM. Filhol, Durian, Girard, Chavernoe, Moly and Chobenat) and briefly reviewed the labors of the Society under his administration. It also gives the inaugural address of Ernest Chaude, of the French bar, on assuming the Presidency.

Its first paper by M. Guenier, entitled *Jurisprudence,* is a report in detail, of eight different cases from various criminal courts of France, including medico-legal questions of different kinds, and which are important and interesting.

An order for the discussion of the question of *Kleptomania,* and the question of thefts in the shops and stores (shop lifting) having been made, M. Brouardel submits an interesting

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case on the subject, and the distinguished alienist, M. Lunier, submitted an elaborate paper based on 14 different cases, the details of which were analyzed and submitted, on which he had been called upon in his capacity as Medico-Legal expert.

M. Legrand du Saulle took brief part in the discussion, stating that he had made observations upon 83 cases, and gave his views on the subject based upon his experience.

M. Lasaggne contributes a very able article upon the same subject, based upon many cases that he had observed, of which he cites nine in detail. The contributions of the four gentlemen with the discussion forming a most important contribution to this branch of the science.

M. Vibert contributes a paper, being a Medico-Legal inquiry on cases of three nursing children, dying suddenly with typhoid fever, with microscopical examinations.

M. le Dr. Hurpy, of Dieppe, contributes a paper upon a curious case of suicide by hanging.

MM. Barthelemy and Magnare give in an interesting paper, the result of a scientific examination of cases of poisoning by carbonic oroide, with a careful analysis and description of the symptoms, and the work concludes with a communication from Dr. Fredch, of Royal, upon a case of death by suffocation, resulting from suppuration of the epiglottis, the result of intemperance, and a very interesting case submitted by Dr. A. Lutaud, upon the duty of the physician to preserve the secret confided to him by his patient in the matter of a refusal on his part to give the name and residence of the father or mother of an infant, when he had delivered the child pursuant to articles 55, 56 and 57 of the civil code of France.

The doctor refused to betray the secret and was

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threatened with prosecution. He claimed his right to refuse under article 378 of the penal code.

Several interesting cases under the French law are cited, and the decision of the Procureur of the Republic was accepted finally by the Mayor of the Arrondisement, sustaining Dr. Lutaud in his refusal to give the name and residence of the mother.

This first part of Volume VII., of the Bulletin of the French Society comes down to the Session of March, 1881.

At the Session of May 9, 1881, a report was made by Devilliers upon a case of Infanticide submitted by Monsieur M. Hemar, formerly the President of the Paris Society.

At the Session of October, 1881, M. le Dr. Gillet de Grandmont read a paper on color blindness, which was discussed by Gallard, Lacassagne, the author, and M. Lunier.

At the November Session of 1881, a report was made upon a case of infanticide by M. Billandeau, which was discussed by M. Penard, Billandeau and Gallard.

At the December Session of 1881, M. Herbelot submitted a paper on Legislation regarding the dangerously insane, and a paper was presented, on the viability of the newly born infant, which was discussed by Brouardel, Gallard and Lagream.

The action in 1882 so far as it has come to my knowledge, has been on the following topics: The report of M. Ernest Chaude was made the special order for discussion at the meeting of 9th January, 1882, 13th February, 1882, and 13th March, 1882, and was discussed by Penard, Max Brunner, Mayet, Roeker, Gallard, Descourt, Lunkier, Lebaigne, Rocher, Leon, Chaude.

Mr. Oliver submitted a paper at the Session of February,

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1882, on *abortion,* and Dr. Ph. La Roche submitted a paper at the March Session of 1882, upon the Medico-Legal value of the signs and marks in important cases.

I am not advised what later papers have been read before the French Society.

Great Britain.

I regret not being able to chronicle that advance in Medico-Legal science in Great Britain for which we have hoped. While there are individuals who give the science careful study and attention, and who have contributed to its progress and growth, it cannot be disguised that Great Britain is behind other nations, in the progress of Medico-Legal Science. The works of H. Maudsley, W. A. Guy, Prof. A. S. Taylor, Husband, Woodman and Tidy, Paris and Fonblanque, Bucknill, Tuke J. Balfour, Browne, Ryan, Trail, Brady, Winslow, Connolly, Pagan, Watson and Gaine are valuable contributions to the science, without enumerating earlier authors; but there is no society of medical jurisprudence in Great Britain, nor any journal devoted to its advancement. While she has done and is doing much for medical science, and did as early as 1803, found a Chair of Forensic Medicine in the University of Edinburgh, which has been followed later by chairs in other colleges, it is a source of regret that the medical men of London do not unite with the leading members of the bar in a society for the advancement of medical jurisprudence, and aid the labors now going forward in the various countries in Medico-Legal studies.

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GERMANY

stands at the head, in the value of contributions, to the science of medical jurisprudence.

We have in our library Wilborg's Bibliotheca Medicinæ Forensis. which gives the titles and authors of 2,980 treatises, essays, &c., published from about A.D. 1600 to 1818, the great majority of which were by German authors. Orfila furnishes a list of works on poisons, coming down to 1848, of which 100 were by German, 33 by French and 19 by English-speaking authors.

(Orfila Medicine Legale, 4th ed.)

Of the 498 literary contributions to the science of medical jurisprudence and toxicology for the years 1858 and 1859, being 250 to the general science and 248 to the latter subject, Germany contributed 201 of the former and 118 of the latter. (New Sydenham Society year books, 1858 and 1859.)

It is the opinion of competent judges that Germany contributes more to Medico-Legal literature than all other nations. And such is the opinion expressed by Prof. Stanford E. Chaille, of Louisiana, in his admirable address delivered before the International Medical Congress at Philadelphia, in 1876.

OTHER CONTINENTAL COUNTRIES.

There is an increasing interest in Forensic Medicine in most of the other continental countries. The writings of Schleisner of Copenhagen place him deservedly in the front rank of modern authors. Dr. Lewis de Grosz, of Buda Pesth, Hungary, has contributed two valuable works in 1868 and in 1873, upon medical jurisprudence,

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and that country has for thirty years maintained a system of legal medical experts, worthy our examination, and based upon advanced scientific grounds. Each tribunal in Hungary has its medical expert, named by the Minister of Justice for life, with the title of Royal Medical Expert. All medical opinions of physicians are submitted to his scrutiny —an appeal may be taken as a last resort in case of difference of opinion to either one of the two Public Professors of Legal Medicine, the one at the University of Buda Pesth, the other at the University of Klausenbourg. The study of medical jurisprudence is required by law to be pursued by both legal students in the schools and by medical students in the medical colleges under competent professors.

The Superior Council of Hygiene, or the Faculty of Professors in Medicine, can order the exhumation of dead bodies, the removal of those who have been adjudged insane into the central asylums for the insane, and address any questions supplementary to the report, to the Royal Medical Expert of the Tribunal concerning the case in review.

Hungary has established at Buda Pesth, a central laboratory, presided over by the Legal Chemist of Hungary, who occupies himself exclusively as the chemical expert in all cases of poisoning, or other causes arising in the criminal courts requiring chemical analysis.

In Belgium more attention is being paid to the science, and Dr. Vleninecx, of Brussels, was selected as one of the Vice-Presidents of the International Medico-Legal Congress, who attended and gave an account of the then recent changes in the Belgium laws regarding the evidence of Medico-Legal Experts.

It is to be hoped that a few years will witness the found-

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ing of still other societies within several of the continental countries.

Italy.

While the *Biblioteca Medico-Legale,* published at Pisa, the two volumes of which were published as late as 1877, bring the works down to later dates (which volumes I have not seen, but have seen quoted), the earlier Italian authors on Medical Jurisprudence have been of acknowledged excellence: Zacchias Paulus, Tortosi and Bargoletti, Taurini, and the later works of Presutti, Freschi, Laggaritti and Gandolfi. But few, however, of these contributions have been translated into English. Beccaria's old work was translated into English in its 5th edition, as early as 1804. Doctor Arrigio Tomassia, an Italian Professor of Medical Jurisprudence, has written a prominent member of this Society (Dr. W. J. Morton, editor of the *Journal of Nervous and Mental Diseases*), evincing great interest in the science, and announcing his intention, acting in conjunction with distinguished Italian confreres, to found in Italy a Society of Medical Jurisprudence for that kingdom. I am in correspondence with this gentleman upon that and other subjects connected with the science, and desire to see his name placed on the list of corresponding members.

America.

In our own country, outside of the work of this society, I think it is fair to claim a general increase of interest, not only in both the great professions most intimately

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connected with the science, but with the thoughtful public.

The Medico-Legal Society of Massachusetts, while being an association composed in the main of the Medical Examiners appointed by the Governor under the new law abolishing coroners, also takes an interest in general forensic medicine. That society reports the practical, admirable working of the new law, and the influence of that movement has been, and is now, felt in every State.

There is great public interest felt in the exciting questions of the proper methods of committing and protecting the insane, and the public mind is aroused to the importance of remedial legislation in the various States, which is, by no means, confined to this Society. A national organization entitled, "The National Association for the Protection of the Insane and the Prevention of Insanity," has been organized which embraces distinguished alienists in various States, and which meets in Philadelphia this month, at its annual session. Last year valuable contributions were made by prominent gentlemen, which were then read and discussed, and the proceedings published in a journal conducted under the auspices of that body.

The Neurological Society of this City is doing valuable work in a line of the science which cannot fail to be felt upon the valuable increasing literature of our age.

Necrology.

We have lost four members by death during the year that passed. Two from each profession. On the medical side, the eminent surgeon Dr. James R. Wood, and Dr. Hogan, one of our oldest members.

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On the legal side, Hon. Edwin N. Stoughton, that lustrous name of the Senior Bar, and the gifted Albert Herrick, of the Junior Bar, whose funeral we have but just attended. Dr. Hogan and Mr. Albert Herrick have both died since our last session.

General Recommendations.

Translations.

We have in this Society a considerable number of gentlemen thoroughly familiar with the German language and fully competent to make translations into English. I have made a list of more than forty members of this Society who are fully qualified and competent to do such a work well.

It is a great loss to both professions that the writings of such authors as Kraft Ebing, and others, are either not translated at all, or that translations of old and almost obsolete editions only exist—of but little value.

I should be glad if the Society will authorize the formation of a numerically strong Committee, selected from such members as would be willing to work with a view of rendering into our own tongue the more valuable of the German writers, commencing with those which are not translated at all. The translations, when completed, to be submitted to and approved by the Society, printed in its paper and transactions, and credited, in all cases, to the gentlemen who make the translations.

To lighten the labor it should be divided among several workers. A Committee of at least ten, or perhaps twenty, could readily be formed from our best German scholars, for

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this purpose, some of whom have expressed a willingness to engage in it.

A similar Committee could easily be formed of members competent to translate French, who, while not probably as numerous as the German scholars, would easily accomplish more and better translations each year than we can find time or means to otherwise obtain.

From the desire to gather translations of the abler German writers, I am of the opinion that publishers could be found who would be glad to undertake the publication of such works of this class as we could not find space for in our own publications, or were unwilling to incur the expense of publishing, if it assumed too large proportions.

The recommendation as to the Italian works, and other languages, would depend upon the strength of a suitable committee, concerning which more careful inquiries can be made among our members.

Medico-Legal Journal.

It has been suggested to your President that the time has now arrived, when it would be wise to carry out the view entertained some years ago, of starting a journal, under the auspices of this Society, devoted wholly to the science of medical jurisprudence.

The fact that no such journal now exists in the world, it is thought, would arrest the attention of every member of both the professions of law and medicine in all English-speaking countries, and be sustained by scientific men in foreign countries, who speak or read our language. The *Annals de Hygiene et de Medico-Legale* is a publication which

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may truly be said to occupy a part of the field to which such a journal would be entitled, if ably edited and conducted, and the value of this work to the science is enormous. I should also mention as of great value the *Quarterly Journal of Medical Jurisprudence and Public Hygiene,* of Berlin. The better plan for such a publication might be to allow every member of this Society to have a copy on payment of $2.00 besides his regular dues.

It would be a matter of opinion whether to make the price $3.00 or $5.00, which would be settled at the proper time, in some satisfactory way, and so that both professions outside the Society might feel interested in subscribing for, and sustaining such a journal.

The editorial staff should be selected equally, or nearly so, from both professions, and I have no hesitation in saying, that if the Society favors the plan, an exceptionally strong editorial staff can be selected with ease from our ranks, which would entitle the volume to the confidence and support of every legal or medical gentleman in the United States, or the Canadas.

Such a journal should contain, besides the original articles of the editors, all papers read before the Society, approved by the editors, original contributions by persons not members, papers, statements or queries propounded to the Society by any person, tribunal or body, and the transactions and debates of this Society.

It could be owned and conducted by the Society, at the charge and cost of the latter, at a relatively small expense, or it could be owned by individuals, and be made the organ of the Society, and conducted so that all papers and proceedings should appear promptly.

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If owned by individuals, the Society might subscribe for 100 copies at $3.00 each, to be sent, under its system of exchanges, throughout the world, limiting the liability of the Society to that sum, and letting the owners take the risk of outside subscription, and of the number of members who would subscribe under the provision suggested.

I can undertake to fill the editorial staff, if the Society favors such a journal, without difficulty.

The subject, if approved by the Society, should be referred to the Executive Committee as to arranging details.

Heads of Hospitals and Institutions—The Courts and both Professions.

I recommend that we invite all Superintendents of Hospitals, Asylums, Prisons, Charitable Institutions, Municipal Boards, Judges, District Attorneys, and especially all physicians in charge of any Asylum or Institution, to communicate direct to this Society any case coming to their notice or under their observation involving Medico-Legal questions, with a brief and clear statement of the facts and the forensic questions involved, with such comments, views or criticisms as they desire to submit to this body. That this invitation be also extended to members of both professions throughout the United States, to public officials, Courts or officers of Justice, regarding Medico-Legal questions involved in actual cases arising, which questions, statements or communications will be laid before the body, its Permanent Commission, or select and appropriate committees, for action.

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The French Society of Medical Jurisprudence has adopted a similar plan with great success, and their later Bulletins are enriched by reports of cases, submitted by physicians and advocates throughout France, which has sensibly widened the field of the labors of that body.

It must be apparent that if such an invitation be widely given, and responded to, it would sensibly enlarge the usefulness of this Society.

The increase in our members of gentlemen carefully selected from the two professions, who take an interest in forensic cases, renders it possible for this Society to ably respond to such practicable questions as might be thus submitted, by sub-dividing the work among the members in select committees, while reports of cases or papers based upon actual facts arising from time to time (and often our Judicial decisions), would find an abler analysis and wider diffusion in the scientific world than through any other channel.

The public press of to-day finds our proceedings of increasing interest to its general readers, and our own publications will attract larger public attention as time progresses.

I recommend that the Legislature be memorialized by this Society in favor of the passage of a law:

1. Creating an office to be known as the State Chemist, with a salary of not less than $5,000, and not exceeding $10,000 per annum, sufficient to secure the best talent in the State for the office.

2. That he have charge of a laboratory to be furnished by the State, with suitable assistants, and provisions for conducting the same under proper provisions.

3. That every case arising in the State in criminal cases,

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be sent to this officer for analysis, under proper regulations, and that his reports thereon be used in criminal cases for the people and the defense; and that this be placed upon such a basis, both as to the proper selection of an officer, who should be non-partisan and selected only for high attainments in his profession and its administration, as would enable the people and the accused to have the most careful chemical analysis made, in every case requiring one, arising in the State at the public expense.

Thanking you, gentlemen, for the honor conferred, let us assume the new duties of the coming year with renewed interest and determination.

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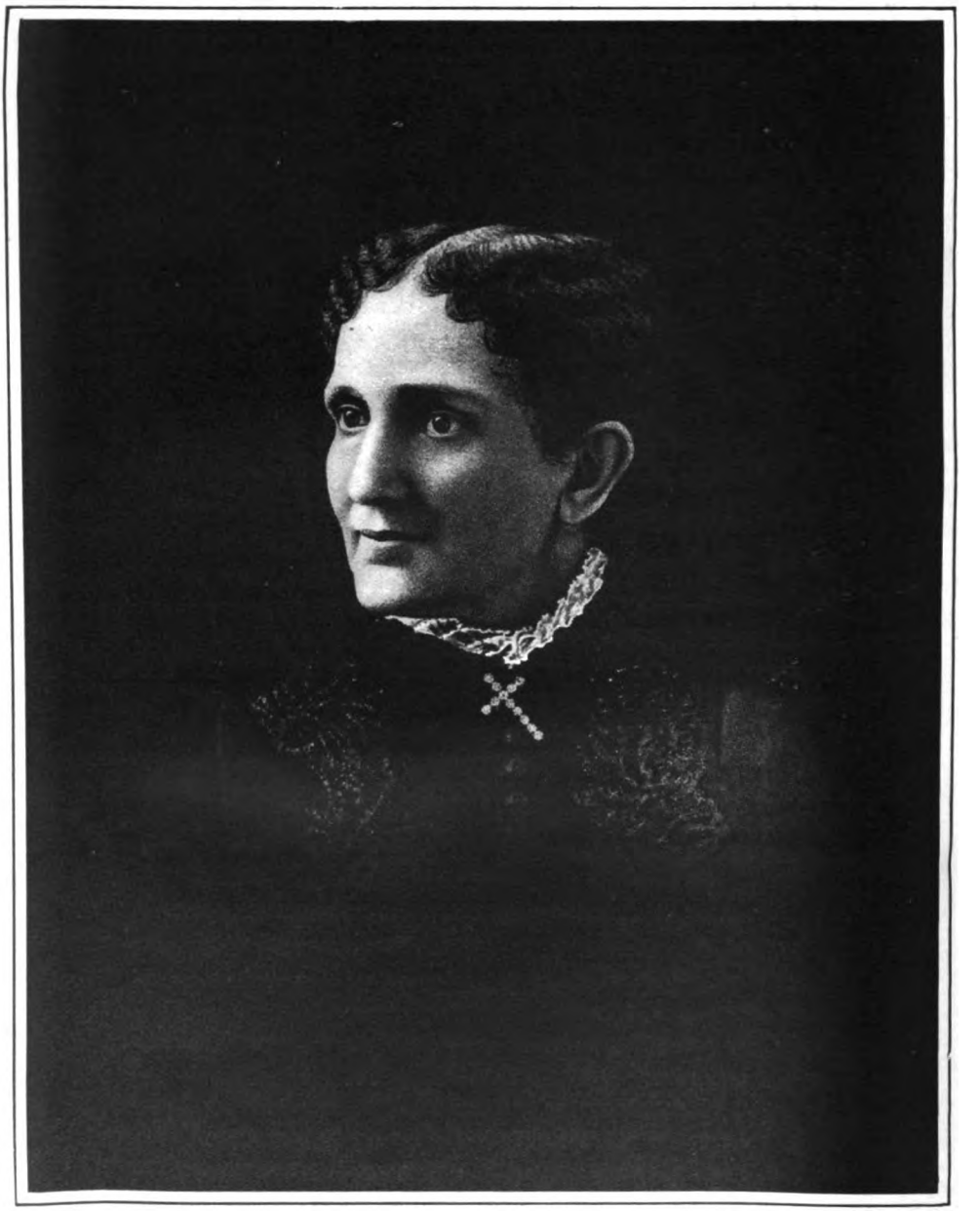

Gratefully, Cordially Yours,

MARY BAKER G. EDDY.

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CHRISTIAN SCIENCE.

Committee on Publication for the Christian Science Churches for the State of New York.*

BY J. V. DITTEMORE.

Christian Science, or the Science of Christianity, is the knowledge of the Principle or law by which Christ Jesus demonstrated his system of doctrines and precepts. Applied Christian Science, or the practice of Christian Science Mind Healing, consists of the application of this knowledge to the solution of the problem of evil and for humanity's deliverance from all sin, disease and discord. The results from Christian Science practice, as in any other science, are in direct proportion to the demonstrator's understanding of the Principle, and his correct application of the rules. Christian Science accepts as its basis the existence of one infinite God, who is the infinitely intelligent, creative Principle of all that has real being, the spiritual noumenon of the phenomena through which it is interpreted and understood. Christian Science accepts the term divine Mind as most expressive of the omnipotence, omnipresence and omniscience of this God who is infinite good, and who, as the Scriptures declare, is Spirit and is Love. If this basis is accepted, logical reasoning therefrom can only bring us to one conclusion, viz., a spiritual and perfect universe, and normal man, as the perfect idea of his perfect Creator. Any concept of God or of man which is less than perfect is the result of false education or environment, the deception of erroneous material theories and the penalty for failure to realize man's God given dominion. Christian Science declares that all disease, suffering and their dolorous concomitants are phenomena of mental procurement and the results either of individual or racial sin, ignorance or fear; that they are not of God, have no Principle or scientific basis and exist wholly in the realm of a supposititious or mortal

*Read before the June meeting of the Medico-Legal Society and the Psychological Section of that body, June 17, 1908.

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consciousness, and that they are therefore abnormal, illegitimate, unnecessary and destructible.

Jesus said that salvation or freedom comes to mortals through knowing the Truth. He also said that those who understood his teaching should not only duplicate his works, but should perform even greater works, because he went "to the Father"—to the divine Mind, the source of infinite Truth or knowledge, and he applied this knowledge in solving the problems of human existence in fulfillment of his mission. This process of applying God's law to the beliefs of human experience is to-day the modus of Christian Science practice, whereby health is proven to be entirely a condition of mind.

Christian Science vindicates its claim to be Christian because of the Christliness of its practice. The Founder of Christianity declared that those who loved him and therefore those who were entitled to call themselves his followers, or Christians, were those who obeyed him and among other commands, universal and confined to no age, was his injunction to heal the sick and cast out devils.

It vindicates its claim to be Science on the ground that all true Science must be the orderly arrangement of ascertained facts about that which is real. Christian Science maintains that there is nothing to know but Deity and His creation. True Science must then begin with a correct, comprehensive, complete knowledge of God and must end with a full understanding of God's creation.

Christian Science is not guesswork, neither is it faith cure in the sense that it is either fanatical or emotional in its inception or modus operandi. Christian Science practice is definite, precise and systematic. It works according to law and is both rational and philosophical.

The abstract statement, "There is no matter," needs the fuller explanations given in the Christian Science text-book. This teaching does not imply that all phenomena are unreal and that man has no body, but that creation is not what it seems to that mind which has not been instructed out of the material and into the spiritual concept of these. All things in creation from the smallest to the greatest are real, but exist as the product of Spirit or Mind, and are not material. Matter is the belief that spiritual creations are material. This belief is untrue; hence the declaration, "There is no matter." Thus it is noted that Science does not

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deny creation itself, but the false, material concept thereof. The difficulty with critics in wrestling over this problem is that they do not perceive what Christian Science gives in return for that which it repudiates.

While Christian Scientists differ from others in their understanding of the nature of sickness, sin and matter, they believe that these exist in erroneous mortal experience and must be grappled with and overcome through divine power. Bodily disease is as real as the sinner makes it by his indulgence. If in our prayers or meditations God becomes to us infinitely great, the troubles of earth must become infinitesimal, for though they may be mountains to mortals, they weigh nothing in the sight of omnipotent God.

It is not strange that those who are advocates or practitioners of purely material methods of healing should take issue with a system which advocates neither material medicine nor any of the methods of mental domination by human will power, as practiced in the various systems of hypnotism, mesmerism or suggestion. It is only within a comparatively few years that the average physician would admit the mental cause of many disorders which are now quite generally conceded to be entirely due to mental impairment.

The fundamental difference between Christian Science healing and the practice of materia medica or suggestive therapeutics lies in the consideration of what disease is. Christian Science classes all disease as unreal in the sense of its being an outlaw, illegitimate and destructible, in fact, a dream or belief from which the sufferer needs to be awakened by a realization of his true being and his birthright of health and dominion. Christian Science maintains that nothing that God created and therefore has real existence, can be destroyed. Suppose that the efforts of the medical profession throughout the world were suddenly realized at 12 o'clock to-night, and every case of disease were cured and all liability of disease in the future removed, what would become of disease? There would not be any. Did it ever exist? Yes, as phenomena, but not as fact. If a school boy believes that two times two make five, it exists for him as a reality and his problems are in continual error because of his belief, but when he learns the axiomatic fact that two times two make four, and can demonstrate its verity, he knows the truth and is freed from his false belief no difference how firmly he believed it to be a reality.

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On the other hand, all curative methods except Christian Science, accept disease as an entity as unavoidable and as one of the sternest realities of existence. They grope among the bodily manifestations of disease which are at all times effects, and if the particular ailment seems to belong to that class which are accepted as having been influenced by "the mind" suggestion is employed. The specific suggestion which is offered as a remedy is based upon what the physician considers a falsehood. The verdict of his sense testimony, which he considers to be infallible in its ability to decide between reality and phenomena, tells him that he has as his patient a sick man. When he, therefore, argues or suggests to his patient that he is well, he is using a hypnotic suggestion which he believes to be false, and if conscientious he could hardly expect his method to bring successful results. One well-known writer has defined suggestion as the art of fooling the body into good behavior.

One may ask what is the difference if the patient is relieved? The difference is that any seeming benefit from suggestion comes through a mere change of belief as a result of the despotic control of will power. An evil effect can follow such an operation as readily as a good effect. It is a result accomplished by the uncertain operation of the human mind which is conceded to be a source of disease, and that which causes disease cannot cure it.

On the other hand the treatment of Christian Science brings man to a higher realization of his spiritual Sonship, his likeness to God. Mrs. Eddy has said: ("Science and Health with Key to the Scriptures, Pref. XI., p. 186.) "The physical healing of Christian Science results now, as in Jesus' time, from the operation of divine Principle, before which sin and disease lose their reality in human consciousness and disappear as naturally and as necessarily as darkness gives place to light and sin to reformation." "Christian Science destroys material beliefs through the understanding of Spirit, and the thoroughness of this work determines health."

When Jesus healed the sick by his perfect and unfailing method he did not say that those who believed in him (understood him) should heal hypochrondriacs and neurotics, but that they should do the works that he did and even greater works according to their understanding of the Father. That Father which Christian Scientists designate as the infinite, divine Mind—the creator of a perfect creation, the great First Cause of all that

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has real existence and the power that is to-day made available in Christian Science to the destruction of all that is unlike this God.

Christian Science makes no concessions to opinion or precedent. It states its case and is satisfied to abide, if necessary, in any storm of protest or condemnation until time shall turn and overturn and the final judgment shall be passed on it, believing in the absolute infallibility of the wisdom of Gamaliel of old when he said: "If this work be of men it will come to naught, but if it be of God ye cannot overthrow it."

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PSYCHO-THERAPATHY.

The Emmanuel Movement, and Christian Science, Abstract of Address.*

BY REV. MADISON C. PETERS OF NEW YORK.

The Emanuel Movement essentially similar to Christian Science in its practical workings, is simply emphasizing a neglected truth of Scripture, that mind does influence diseases of the body, just as the body may influence diseases of the mind. What the mind creates will be expressed throughout the body.

If Christian Science has any truth which Jesus taught, then it is the duty of the Christian Church to be broad enough to embrace and utilize its truth for the furtherance of Christ's purpose in the world. That Christian Scientists should be compelled to leave the church of Christ to accept any truth which Jesus taught is certainly a challenge to the church, and the Emmanuel Movement is the answer of a few practical ministers who have not fallen asleep on their jobs.

There is strong evidence that Christian Scientists are both healthier and happier than members of other churches and this being true, the church confronts a matter which can neither be ignored, nor treated with light concern.

The old time churches say, "I will give you life and happiness beyond the grave." The Christian Scientists promise all that and in addition health and happiness here. If we present a religion which will include health and happiness here, we will find plenty of people who will accept religion with enthusiasm.

Christianity does prevent and cure disease. Fifty per cent. of all diseases may be traced directly or indirectly to ignorance, unclean living and bad thinking. This being true, Christianity should, if true to its mission, cure fifty per cent. of the sickness and disease which now prevails. Mrs. Eddy has applied this power to her church. If the other churches want to stay in business they will have to apply the same power to their churches.

* Read before the Medico-Legal Society and the Psychological Section at the June meeting, 1908, at the Waldorf-Astoria.

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When Mrs. Eddy says that mind is all, that disease does not exist, that mental treatment is all the sick person needs, she is both unscriptural and unscientific; but she is right when she says that there is power in Christianity to heal the sick, prevent disease and bring happiness to all.

The truth is we are a combination of the mental and physical. These effects, both good and bad, are all produced by causes. Fifty per cent. of disease has its origin in physical causes which cannot be cured by a mental process. The straining of the back is an effect produced by a physical cause. Wrong thinking did not originate it, and it cannot be cured by a mental agency and it will be wrong until it is fixed by a skilled anatomist. No attitude of mind can cure diseases which are the result of physical causes. But many diseases are produced by mental causes and if you change a man's thinking you will change his acts and the effects which followed the former acts will disappear. The work of the church is as much along health lines as purely spiritual. The Emmanuel Movement should strike every church in the land.

Church members should be happier; everybody wants to be well and people want to be shown how to get well by living right. Christianity offers material blessings and the church that gives the world those things is the one that will succeed. If the Christians in the orthodox churches are not as happy and enthusiastic as the Christian Scientists it is because those churches are not giving to their members the material blessings which Christian Science brings. The time has come when all the churches should teach right thinking, deal less in futures and be concerned more about the present. Mrs. Eddy did not invent the power to heal any more than Edison invented the power of electricity, she invented the power of applying it. Her invention is not a discovery. Others before her used the same method for the same purpose. Yet she has rendered the world a great service by improving these methods. Christian Science is accomplishing much good and unless the other Christian churches will use the same power to prevent disease, heal the sick, and promote happiness. Christian Science will steadily grow. Christian health and happiness must be made a study, and many of our churches would be saved from theological putrefaction if they organized health and happiness societies. I rejoice in the success of Christian Science and hail the Emmanuel Movement; both are teaching the people

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to live on the positive side of their natures instead of on the negative or passive side. The world has croaked too long about its sorrows. It is time for our souls to escape their narrow cells and in God's world learn tenderness and sympathy and by turning attention from self, the restorative powers of nature will be given freedom of action.

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MENTAL HEALING.*

BY CHAS. BRODIE PATTERSON, OF NEW YORK.

Mr. President, Ladies and Gentlemen:

At best I can give but a brief statement of the subject upon which I have been asked to speak to-night. The time allotted to me would not permit of my doing more than this.

I have been asked to take for my subject Mental Healing. While I realize that my position and argument would not be accepted by the thorough-going materialist, as our fundamental basis would be different, nevertheless I am unable to see how anyone calling himself a Christian or an idealist can take exception.

While the movement which to some degree I represent, is known as the New Thought movement, yet it is not new, in the sense that the same system of philosophy and healing has been used before. In fact, we claim that the great Nazarene and his followers taught and practiced it; but it is new in the sense that it is a revival of truth long unused and forgotten. We believe, as did the Nazarene, that whatsoever a man soweth, that also shall he reap; that we are living in a universe of cause and effect, and that each cause produces an effect like unto the cause; that we are living in a universe controlled by eternal Law, and the Law which governs the whole, governs every part, from the atom to the universe itself, and that any act or acts that lack conformity to this universal Law constitute sin, and sin in its last analysis expresses itself as disease and death.

Often, when Jesus was instrumental in healing the people who were sick, he said: "Go and sin no more, lest worse thing befall you." I have used the term "instrumental in healing the sick," because Jesus knew that the healing came through the awakening of the mind of his patient, for we repeatedly hear him say: "Thy faith hath made thee whole," just as we find at the present time that some people are far more responsive than others, and therefore the healing takes place in a much shorter time. The one thing, then, to be noticed is that it was through there being something latent or potential in the life of his patients, which he called

*Read before the Medico-Legal Society and Psychological Section, June session, 1908.

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faith, and it was this that, through its awakening, became a living force. Dissipate or overcome the wrong mental condition, and later comes the physical response in renewed health and strength.

In the light of the present, it is absurd for us to look at this healing as being of a miraculous nature, or something transcending the laws of the universe. No, it was a lawful, orderly method of healing, not only used by Jesus, but taught by him to his followers, and in turn used by them in healing the sick. And the people of that time who were prepared to receive it, derived benefit; and the others, who had not arrived at a place where they could rely on the invisible energy, put their faith in the materia medica of their time, just as people do in this day and generation.

Neither would I have it otherwise. The people who put their faith in material remedies, should have them. No matter how ardently I believe in the efficacy of mind in the cure of disease, I would resist every effort made on the part of the New Thought movement,—or any other movement, for that matter,—to take away what the people want. I look on all systems of healing alike as stepping stones to still better methods of healing; therefore I would raise my voice against the doing away with any of them until, in the fulness of time, the perfect system of healing having come, it supersedes the rest in a natural way. As an exponent of the New Thought, I believe that our system is the very best for those who want it, and while the number who want it now is very large and is daily growing larger; it is, however, comparatively small measured by those who still hold to the more material methods.

I believe, however, that the most successful doctors of the next generation,—because we cannot expect too much of the present generation,—will be the men who will make as careful and as thorough study of mind as they now make of the body. And at this point let me say that the mental healer finds mental states which corresponds to physical diseases, and that his efforts are directed to overcoming the wrong mental conditions, and that through doing so the body becomes whole. Mental treatment has for its object the bringing into existence of the vital forces latent in the life of the patient, so that through their use all the negative physical conditions are overcome. We are fully satisfied that what Herbert Spencer wrote is true: that Thought is not the master, but Feeling,—that Thought is only the servant of Feeling.

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Thought is an effort on our part to give expression to what we feel; therefore, thought is not the greatest agent in the cure of disease, either as one may think it for himself, or as it may be suggested by doctor or mental healer, in the effort to bring about the cure of disease.

The great soul side of life must be invoked. Faith and hope, love and joy must flow into the mind, bringing new illumination and the renewing of the mind, through these soul qualities, as a necessary condition of perfect health. It is, then, through th calling into a living existence of the inner vital forces that all permanent healing takes place. So the successful doctor or healer must be consciously in possessison of these inner feelings, in order to attract or call into living expression the same qualities in others; and while doing this, he can also shape and direct his thoughts so as to picture in mind what he would like to have the patient express: what he would like to have the patient be or do. Thus he must be able to focus or concentrate his thoughts so that through the dynamic of feeling his thoughts may become real living things. Feeling, then, is the force; thought is the forming and directing faculty whereby the feeling finds its true outer expression in and on the physical organism. The more we feel, the more power we have to impart to others, and the more we live ourselves; because when there is a constant outflow in a lawful, orderly way, there is also a constant influx.

We claim, then, for this system of healing that first of all it is a religion,—a religion wherein man feels the presence of God in his own life; that the Kingdom of God, or the Kingdom of Power, is within his own consciousness.

That it is also a philosophy; that the philosophy defines the laws that govern and control the life of man in his existence on the planet.

That it is in turn a science, in that that which is felt takes form in the physical world and thus becomes thoroughly expressed.

That the real order of life is always from center to circumference.

That we feel with our hearts or souls; that we think and reason and form judgments with our minds, and that ultimately we give whole and complete expression to the inner feeling and thought through perfect physical health and strength.

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EDITORIAL.

PROSPECTUS TO VOL. 26 MEDICO-LEGAL JOURNAL.

The Editor announces Volume 26 of the MEDICO-LEGAL JOURNAL with pleasure and with pride.

It resumes and continues the work of a quarter of a century devoted to a study of the Science of Medical Jurisprudence in America, and a general view of its progress among the nations of the world.

As the organ of the Medico-Legal Society it has representative men as Vice-Presidents in nearly every country on the globe.

It will keep in touch with kindred societies in Europe, in the countries of the Western Hemisphere; and the Journal will note the progress of the Science in all lands and countries.

This volume will continue the publication of the History of the Supreme Court of the States and Provinces of North America, and complete the Judicial History of the State of New York; the New York Court of Appeals; the old General Term of that Court, and the Appellate Divisions of the Supreme Court, with the portraits and biographies of the Judges of the Supreme Court of the nine Judicial Districts of the State, and especially of the newly elected Justices of the Supreme Court, elected under the last amendment to the Constitution of the State.

The Medico-Legal Society is now engaged in an investigation upon how to rescue "Medical Expert Testimony" from the degradation into which it has fallen. A Committee of Judges now on the Supreme Bench in the various States, and ex-Judges, under the Chairmanship of Hon. L. E. Emery, Chief Justice of the Supreme Bench of Maine, has this subject in charge and contributions made to it will be published in the Journal, and sent to that Committee for report.

Symposiums are now nearly completed, and will be concluded in this volume, on the following subjects, to which contributions are still solicited, and will be published in the Journal, and also in Brochures if called for by the professions at a slight cost.

ALCOHOL AS A DIET OR FOR MEDICAL USE.

LONGEVITY, AND THE RELATION OF OLD AGE TO USEFUL WORK.

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PSYCHO-THERAPEUTICS: OR THE RELATION OF THE MIND TO HEALTH AND DISEASE.

EXPERIMENTATION ON ANIMALS FOR SCIENTIFIC ENDS,—VIVISECTION, ETC.

THE AMERICAN INTERNATIONAL CONGRESS ON TUBERCULOSIS of 1909, adjourned from Chicago from June 1st, 2nd and 3rd, 1908.

Two papers contributed to the Chicago Congress, read before the New York Medico-Legal Society, at its June Session, will appear in the fall or winter number of this Journal.

One by Professor MIGUEL BOMBARDA, Secretary Lisbon International Medical Congress of 1906, on "PREVENTIVE LEGISLATION AGAINST TUBERCULOSIS."

One by Professor Dr. OTTO VON SCHROEN of the Royal University of Naples, on "The Phthiseogeneus Microbe of Phthisis of the Lung."

Both these gentlemen are Honorary Presidents of the American International Congress on Tuberculosis, of which Dr. George R. Tabor, late Health Officer of Texas, is the President; and Dr. E. S. McKee, of Cincinnati, O., is Secretary, and contributions to the Congress of 1909 are solicited on the following themes:

Preventive Legislation against Tuberculosis.

The Pathology and Bacteriology of Tuberculosis.

National, State and Municipal Sanitariums for the Consumptive, their Utility and Necessity.

The Relation of Human to Bovine Tuberculosis.

The Propriety and Need for the Use of Tuberculin, and its Abolition as a Test in Cattle and in Man.

Hydrophobia or Rabies—with the Work of a Select Committee, Arising out of the Case of Mr. Wm. H. Marsh, of Brooklyn; and also a Committee on Dogs and what shall be done with Vagrant Dogs for the Protection of the Public Against Rabies.

Such of these contributions as relate to tuberculosis, if made, will be laid before the Executive Committee for the use of the Congress of 1909, and published in advance of its session if the Committee deems it best; to go before that Congress, as a part of its proceedings and work, and sent in advance to its members and officers.

The Psychological Section of the Medico-Legal Society has received larger attention than any other branch of scientific in-

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quiry, and this volume will contain contributions to work on the following themes:

The Medical Jurisprudence of Insanity.

Medico-Legal Cases.

Toxicological Questions.

Hypnotism, Suggestion, Psychological Studies and Questions.

Mental Science, Psychical Research, and Mental Medicine.

The Medico-Legal Society of Belgium has announced an International Congress on Medical Jurisprudence for 1910, and invited the co-operation of the President, Officers and Members of the New York Medico-Legal Society. This invitation will receive a strongly sympathetic responsive endorsement from the Medico-Legal Society of New York, and an Auxiliary Committee will, no doubt, be formed here, of which this Journal will be the organ and exponent, and to which members will be invited to write and contribute.

The Psychological Section is open to all Students of the Science, at an annual subscription of $1.50 per annum, and the Journal will go to the members for this sum, which is only half the price of its regular subscription.

THE MEDICO-LEGAL JOURNAL is furnished to all members and delegates to the International Congress of 1908 and 1909—or any of the previous Congresses at half price, if paid for in advance, or $1.50 per annum.

This Journal will from time to time publish Brochures and Bulletins of the work or contributions on the special themes and studies as announced.

The Journal will contain portraits and illustrations of authors, officers, members, delegates and contributors to the Society, or its Sections, both the Medico-Legal Surgery, or Psychological Studies, and the June number will continue the articles on Psycho-Therapeutics, the case of Mr. Wm. H. Marsh and the subjects involved in Euthanasia, and Hydrophobia, Rabies and Pseudo-Rabies by eminent writers.

The volume commences with the June number, 1908, and is a quarterly, at the price of $3.00 per annum.

It is sent free to active members of the Medico-Legal Society initiation fee, $5.00 and annual dues outside New York, $2.00 per annum; in New York, $4.00.

CLARK BELL, Editor and Publisher,
39 Broadway, N. Y.

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MRS. EDDY AND CHRISTIAN SCIENCE.

We publish a cut of Mrs. Eddy in this Journal in connection with the contribution of Mr. Dittemore, of the Publication Committee of the Christian Science Cult, to the Symposium of contributions made by the various schools of thought connected with the theme of mental healing Psycho-Theropeutics that have been read before the Medico-Legal Society, and which is now running in the MEDICO-LEGAL JOURNAL.

She must be regarded as a wonderful woman, and no matter what may be thought of the doctrines, she has enunciated, and which have certainly arrested human attention, she is entitled to recognition, as one of the master spirits of her day and time.

Dr. Mars' eulogy and defense of this remarkable and gifted woman is in all ways a surprise to all, in his great work "The Interpretation of Life," just published by D. Appleton & Co. In his chapter "The Return to Reality in Christian Science," he speaks in high praise of Mrs. Eddy's claims to distinction. He argues with distinguished ability, that the idealism of the Theists, should if it is tenable, be made practically useful.

If a tree should be judged by its fruits, those who have ridiculed and scorned her work, will read with amazement his statement, that he regards her "as one of the greatest spiritual geniuses in the history of the race." There has now commenced a reaction, of which Dr. Mars' work is a strong indication, of the great error and mistake, as well of the scientists, the clergy, the medical profession especially, and the free thinkers, in failing to see the enormous forces and power, of the work Mrs. Eddy has inaugurated.

The Colony at Gheel has for over one thousand years evidenced to mankind the influence and the power of the mind in healing disease. It is as idle and stupid to either deny or ignore the wonderful cures at this shrine, as it is to either ignore or deny the work, that the world sees, recognizes and believes, following the Christian Science Cult in this nation.

If we fail to regard the healing of the Nazarene as due to his inspired knowledge of how the mind works now and then, which divines, medical men, and thinkers are confronted with and confounded by, the problems of health, sanitation in life. Both the clergy and the physician must feel and see that ridicule, derision and scorn will not arrest the movement now spreading in the

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minds of the race, which have marked, and must by posterity be conceded to have crowned and glorified, the useful life of this gifted and in every way remarkable woman.

Men of science, like Dr. Mars, teachers of churches, leaders of men, in the various realms of intellectual and national advance, in the welfare and the uplifting of the race, accord praise to this standard bearer, who has come into the advanced age, which she has now reached, holding with a still firm and tenacious grasp the minds of so many of those who follow after her, and sit at her feet, among the masses of the American nation. It is a splendid example of the energy, the ability and the usefulness of the evening of a life devoted to good service and the welfare of her kind.

PROF. BOMBARDA OF LISBON.

Prof. Bombarda was the General Secretary of the Lisbon International Medical Congress of 1906.

He is one of the foremost among the medical men of Portugal, and was the most active official of that Congress. He takes a profound interest in Medical Jurisprudence, and is an Honorary Member of the Medico-Legal Society of New York.

It was due to his influence, and active work, that the list of medico-legal questions was submitted by the officials of the Lisbon Congress to the medical profession of America in 1906. It was due to him and the President of that Congress, that the President of the Medico-Legal Society, was asked to name an Auxiliary Committee, on the medico-legal section and named as an honorary president of that Congress.

The late King of Portugal was friendly to forensic medicine, and it was through the influence of Prof. Bombarda and the President of that Congress that the President of the Medico-Legal Society of New York, was appointed a Government delegate to the Lisbon International Congress of 1906, to represent the United States Government at the Lisbon Congress.

Prof. Bombarda contributed a paper to the American International Congress of 1908, announced to be held June 1-3, at Chicago, and it was sent forward for that purpose. It appears in this number of the Journal translated from the French into our

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tongue by Dr. A. W. Herzog, Chairman of the Committee on Translation.

This paper was read before the Medico-Legal Society of New York by direction of the management of the Chicago Congress, after that body had been adjourned over to 1909. It would have been read at the Washington Congress had sufficient time been possible to comply with the regulations. It is ordered published in this Journal and sent to all the officers and delegates of the American International Congress on Tuberculosis.

The prospectus of the MEDICO-LEGAL JOURNAL as it enters the 26th volume, which appears in the current number, explains the outline of the work, now before the Medico-Legal Society of New York, of which this Journal has been the organ for a quarter of a century.

The early numbers of its first volume are now scarce, and out of print, and the calls of the colleges, universities and the public and private libraries, have compelled the reproduction of No. 1 of Volume I of this Journal, which was published in June, 1883, the quarter of a century it has just passed.

The reminiscences of an inspection of these twenty-five years will, perhaps, be most forcibly shown by an inspection of the Inaugural Address of the President of the Society, which was the leading article of that issue, and shows not only the work of that day, and the situation of the issues then confronting that Society, but will recall splendid names, of men identified with its work, who have passed over and "ceased from their labors."

Among the most luminous names, then identified with its early history, labors and successes, we trust we shall not be charged with being invidious, out of such a large array of men in the professions, who united their energies, in the useful labors of this body; when we recall of the bar who are no longer with us, a few, whose friendship and useful aid, the Editor of this Journal takes a peculiar pride and pleasure in mentioning in this relation, of the bar, Hon. David Dudley Field; E. W. Stoughton; Hon. George H. Yeaman (who has only last year closed a splendid and useful life), and who was honored with the Presidency of the body; General Thomas Ewing; Ex-Judge Abram H. Dailey, a bar leader in Brooklyn; Ex-President Judge

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Calvin Pratt; Ex-Surrogate D. C. Calvin; Hon. Luther R. Marsh; U. S. District Attorney George B. Corkhill; Hon. Jacob F. Miller, twice President of the Society; E. N. Dickerson; Horace Barnard; Judge David McAdam; Austin Abbott; Judge Myer S. Isaacs; Moritz Ellinger; General Geo. W. Palmer; Judge Freeman J. Fithian.

Hon. B. A. Willis, Ovid Dupre, Abe Kling, Esq., Judge Marcus Otterbourg, Judge P. J. Joachimson, Richard B. Kimball, Thaddeus B. Wakeman, Judge Noah Davis, William Shrady, Esq.

Of the legal men of that day still surviving, who have been in sympathy with the work, who are dropping out of the ranks: there remains, Judge John F. Dillon, Ex-Judge A. J. Dittenhoefer, Judges David H. Brewer, Charles Donohue, John R. Gaines of the Supreme Court of Texas, Judges H. M. Somerville, of the Supreme Court of Alabama; Ex-President of the Medico-Legal Society; Ex-Chancellor Cobb, of the Supreme Court; Ex-President Albert Bach; Jacob Shrady; Benno Loewy, R. S. Guernsey, and many others.

Of the medical profession we have only space to name a few. Of the more prominent of those men identified with the work, who are no longer with us, Prof. R. Ogden Doremus, Dr. L. A. Sayre, Dr. T. C. Finnell, Dr. J. Clark Thomas, Dr. Charles A. Leale. Dr. Williaw A. Hammond, Dr. William F. Holcomb, Dr. Fordyce Barker, Dr. Wooster Beach, Dr. Geo. M. Beard, Dr. J. F. Chevaux, Dr. M. J. B. Messemer, Prof. Henry A. Mott, Dr. R. J. O'Sullican, Prof. F. N. Otis, Dr. M. H. Henry, who were officially connected with the Society at the time of the publication of its first volume and of whom only a few remain still living. Among medical men Dr. Charles A. Doremus, Dr. John T. Kellogg, Dr. Stephen Smith, Dr. S. Du Chaille, Dr. R. L. Parsons, Dr. A. S. Bennett, Dr. Andrew H. Smith, Dr. Wm. J. Morton, Dr. Charles L. Dana, Dr. J. J. O'Dea long active in the Council and work of the body; Dr. F. C. Valentine, besides a very large list of eminent men of both profession in the honorary, corresponding and active list of members of the Society in various States of the American Union and in foreign countries.

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THE HISTORY OF THE SUPREME COURT OF THE STATES AND TERRITORIES OF NORTH AMERICA.

Delay in the completion of Volumes I and II of this work have been unavoidable, notwithstanding the most strenuous efforts of the Editor.

The main difficulty is in securing the portraits and biographies of all the judges before the publication of the volumes for a State.

Some of the States have been very complete, others so incomplete, as to make it apparently impossible without including portraits and sketches of many well-known men of the Supreme Court of a State, notably New York, Ohio, Rhode Island, and the early New England States.

Connecticut is the nearest complete of the New England States and Rhode Island next.

The Editor has decided not to wait longer for the completion of the great State of New York, now nearly done, and which will fill two large volumes when completed, but to commence on States and territories where the prospects of early completion are better, and bring these States out as fast as completed in the Journal, and publish them as brochures or single volumes, each State by itself, from time to time.

This course will be taken in both the Dakotas, North and South Dakota, Nebraska, Oklahoma, Utah, Washington, West Virginia and Wyoming, and with the territories Alaska, Arizona, Hawaii, Indian Territory, New Mexico, the Philippines and Porto Rico and the bench and bar of these States are urged to assist in obtaining biographies and portraits.

The Editor of this Journal appeals to both bench and bar in the various States to co-operate in the work of securing the portraits and biographical sketches of the Judges of the Supreme Court in all the States.

A list of those not yet accessible in New York appears in the September number of this Journal, 1907, some of which have been supplied.

We shall esteem it a great favor if the clerks of the Supreme Court in the various States and territories will send us a complete list of all the judges who have served on the Supreme Bench, with the dates of their service and with the names of those who are now living and their post-office addresses, and of their representatives, if dead.

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We hope to complete one of these volumes of some States or territories during the present summer vacation. The effort to complete the portraits and sketches of the newly elected judges in the State of New York, under the last Constitution has been only partially successful. Some of the judges have responded, others have not. We hope to present a more complete list in our September number.

We trust that the judges to whom we apply will give early attention to enable me to complete a work now ready all in type, but which now requires missing data to make the work complete, standard, accurate and reliable.

CLARK BELL,
39 Broadway.

NEW YORK SUPREME COURT, FOURTH DISTRICT.

The frontispiece of the June number is composed of portraits of four of the ex-justices of the Supreme Court who served in the Fourth Judicial District.

We are indebted to the Hon. Edward T. Brackett, Senator from the Saratoga District, for the portraits from which this group is reproduced.

His collection was the most complete we have found of the bench of the Fourth District.

We have from Senator Brackett still unpublished: Chancellor Reuben H. Walworth, Judges Amaziah B. James, John R. Putnam, and we are also indebted to the same source for the four judges of the Third District that were used in the December number last year. Judge Lyon, of the Sixth and Judges Platt Potter, Joseph Potter and Aug. E. Hand of the New York Court of Appeals, all from the Fourth District.

We also give very hearty thanks to Judge Emory A. Chase, now of the Court of Appeals, for his valuable and sympathetic aid in contributing portraits and data for sketches and to W. H. Shankland, Clerk of the Court of Appeals, as well as to Chief Judge Edgar A. Cullen, Ex-Chief Judge Alton B. Parker, and to Judge Robert C. Titus, of the Eighth District. We do not here give credit to those of the newly elected judges who have sent us their portraits, lest it might be deemed to be a reflection on those who have not yet done so; but let me ask the newly elected judges

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of the Supreme Bench of the State, who have not sent their photographs and sketches or the data for a sketch, to do so at once, so that I can reproduce them in our September number.

MISSING BACK NUMBERS OF THE MEDICO-LEGAL JOURNAL.

Nos. I and II of Volume I, of the MEDICO-LEGAL JOURNAL are out of print, and No. I of Volume I is very rare. We will pay $3.00 for complete copies of that number to fill orders of those who wish to complete their volumes and have offered this price and obtained very few copies.

We are now intending to reproduce that number, and will be able to supply those who lack that number. We will be glad to buy No. 2 of Vol. I and will pay $2.00 for it and $1.00 for Nos. 3 and 4 of Vol. I, which are still scarce and rare. Those needing or having these numbers of Vol. I, will please advise this Journal.

STATE LAW AND OTHER REFERENCE LIBRARIES.

Librarians of State Law Libraries can now obtain complete sets of the 25 volumes of the MEDICO-LEGAL JOURNAL, as arrangements are now in progress to supply the missing numbers.

This Journal is now quoted as authority by the Judges of the Supreme Court, and should be in every complete law library for reference.

It is also valuable and a necessity, in all the great medical libraries; in the libraries of the colleges and the universities, and in the cities of the American States and Canadian Provinces.

It is in many of the State hospitals for the insane and in the medical departments of the colleges and in the collections of the associations of the bar, and should be in all of the great libraries.

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TRANSACTIONS.

MEDICO-LEGAL SOCIETY.

The Medico-Legal Society held its February Meeting at the Waldorf-Astoria on Wednesday, February 19, 1908, at 8 o'clock P. M.

The President, Clark Bell, Esq., in the Chair. The minutes of the January Meeting were read and on motion duly approved; Wm. H. Francis acting as Secretary.

The following was the order of the evening:

1.—Is legislation essential or necessary, regulating VIVISECTION for scientific study?

2.—The American International Congress on Tuberculosis, June 1st, 2nd and 3d, 1908, meets in joint session, with the Medico-Legal Society, Its Scope and Mission. By the President.

Dr. George R. Tabor, late Health Officer of Texas, has been elected President of the Chicago Congress, vice Prof. C. H. Hughes, retiring by reason of his health and inability to give the time to the necessary duties of the office.

PREVENTIVE LEGISLATION will be the foremost medico-legal issue now involved in the conflict with Tuberculosis.

3.—LONGEVITY, in its relation to useful work. By Judge William H. Francis, Dr. Richard J. Nunn, of Savannah, Ga., and others.

4.—Psychical Research, Hypnotic Suggestion, and Mental Therapeutics. By C. O Sahler, M.D., Kingston, N. Y., Captain R. Hudson Riley, Dr. Floyd B. Wilson, and others.

Speakers limited to five minutes each, except opening and closing speakers ten minutes.

On the subject of vivisection the President called the attention of the Society to legislation pending before the New York Legislature inimical to vivisection, and asked the members of the Medical Society to prepare papers to be submitted to the Society for action respecting it. He also asked that those who desired to contribute papers favoring its prohibition or even regulation to also submit their views by contributing their views to the body, saying he had invited the President of the Anti-Vivisection Society, who was leading the assault upon the subject, to contribute papers from medical sources.

Mr. Bell then announced and read the call for the joint session of the Society with the American International Congress on Tuberculosis, to be held June 1st, 2d and 3d, 1908, at Chicago, Ill., and gave advice on the scope and object of the Congress and its work and what was proposed to be done at that session.

He also announced the action of the Council of the Congress electing Dr. George R. Tabor, late Health Officer of the State of Texas, in place of Dr. Charles H. Hughes, who had resigned being unable to give the necessary time to the duties of the office.

Mr. Bell explained why Preventive Legislation would be the prominent issue involved in the conflict with Tuberculosis and the importance that would be given to that branch of the case at the Congress in Chicago in June, 1908.

Under the head of Longevity, Dr. Richard J. Nunn, of Savannah, Ga., submitted a short contribution which was read and placed on file.

Under the head of Psychical Research, Hypnotic Suggestion and Mental Therapeutics, Dr. C. O. Sahler, of Kingston, N. Y., made an address which was illustrated by practical experimental work showing his ability to transfer the sensation of feeling at will in the subject or patient without contact or speech. He illustrated his power to make the left side of the patient insensible to pain, where the right side was sensible, and *vice versa;* he illustrated the power with the subject to locate sensibility at any point, and render the body insensible near it and all around it. The experiments

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were highly interesting and were made with tests that showed the impossibility of malingering or deception by the subject.

Captain R. Hudson Riley, of Bath Beach, submitted a communication which was received and ordered placed on file.

The most terrible storm of the whole winter raged during the entire session and for an hour before it, rendering it almost impossible for members to be present.

The Society then adjourned.

CLARK BELL, President.
WILLIAM H. FRANCIS, Sec. pro tem.

MARCH MEETING.

The March monthly Meeting of the Society was held at the Waldorf-Astoria, 5th Avenue and 34th Street, on Wednesday, March 18, 1908, at 8 o'clock P. M.

President Clark Bell in the Chair, and Dr. J. Mount Bleyer acting as Secretary in the absence of the Secretary.

Dr. J. Mount Bleyer read a paper on Vivisection, and the President read his paper entitled Experimentation on Living Animals in Scientific Research.

Dr. R. W. Shufeldt read a paper on Some of Humanity's Debts to Vivisection.

All three of these papers were discussed together and the action was taken as stated in the March number of the MEDICO-LEGAL JOURNAL.

The President announced that Dr. Edward S. McKee, of Cincinnati, had been elected as Secretary of the American International Congress on Tuberculosis, vice Dr. Juan J. Ulloa, who retires by reason of pressing duties, but he continues to act as Secretary for the Spanish-speaking countries.

The Chair submitted the following report as Chairman of the Executive Committee and Secretary of the Council of the American International Congress on Tuberculosis:

To the Officers, Delegates and Members of the American International Congress on Tuberculosis, and also

To the Fellows of the Medico-Legal Society, Active, Honorary and Corresponding.

DEAR COLLEAGUE: The following correspondence is submitted explaining the retirement of Prof. Charles H. Hughes, of St. Louis, from the active duties of the Presidency and the election by the Council of his successor, Dr. George R. Tabor, late Health Officer of the State of Texas, with the preliminary action of the Council in regard to the work of the forthcoming Congress in Chicago June 1, 2 and 3, 1908.

Respectfully submitted,
CLARK BELL,
Chairman of the Executive Committee, and
Secretary of the Council.

DR. C. H. HUGHES,
3872 WASHINGTON BOULEVARD.

ST. LOUIS, January 30, 1908.

HONORABLE CLARK BELL,
Secretary of the Council and Chairman of the Executive Committee International Congress of Tuberculosis, and of the Medico-Legal Society.

DEAR SIR: As communicated to you on the reception of the first notification of my unexpected and unsolicited selection as President, I am obliged, by reason especially of the too many pressing professional demands upon me already threatening my health, to reiterate my desire that you accept my declination.

Besides, in line of right succession, the honor belongs to Dr. George R. Tabor, of Dallas, Tex., Vice-President of the Congress in 1906, a gentleman eminently qualified by ability and enthusiastic professional interest. He is certainly entitled to the place in natural order of selection.

While the last word has probably not been said upon the subject of tuberculosis, so much has been said in line upon line, and precept upon precept, by the medical profession, that more ought to have been, and more ought to be done now, by the people, through the law and the courts, in the line of sanitary enforcement of well-known effective precautions and penalties for eliminating thisdevantating scourge.

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The germs of tuberculosis infection are almost omnipresent. They insidiously attack and destroy in our food and drink, in the dusty atmosphere of our neglected street, in our homes and neglected tenement houses, all public and private houses and conveyances, and yet this enemy of health is fought but feebly, and too often unintelligently, whereas its health-destroying and death-dealing power requires enlightened, vigorous, ceaseless attack by all the people.

It should be attacked through the law and courts to compel the ignorant, thoughtless and indifferent to aid in the extermination of the plague. Something more than medical warnings and embarrassed and crippled health boards' efforts to coerce a few unwilling and persuade the many indifferent into a proper fighting attitude is now needed.

We require a legal draft into resistless conquering action of the popular power for this plague's description, and yours is the organization to lead on the firing line of battle for the lawful destruction of the enemy.

The ramshorn has been blown, but the walls of this Jericho of menacing disease have not fallen. Some breaches have been made by the medical shouting up to date, but only vigorous medico-legal assault will bring decisive victory. The medical profession has been too little assisted by the people in its endeavors. It has piped, but the people have not danced.

This means official and legislative committees to secure presidential, gubernatorial, congressional and State legislation till the fight is won against this menacing foe of health and life.

Strenuous onslaught, such as that now going on against the threatening plague on our Pacific Coast, a plague more fearful to the people, yet not more formidable in dire results than tuberculosis is, would win victory over tuberculotic death and destruction.

Yet the Los Angeles Board now doing such valiant work against the bubonic plague in killing the rats and fleas of that city, is partly overlooknig the dust that carries the death-dealing messengers of that form of destruction you are contending against. I commend the Los Angeles plan extended to tuberculosis backed by legislative and judicial support.

Appended is the record taken from the *Southern California Practitioner* for November last, showing what vigilant action is being taken to prevent the bubonic plague from getting a hold upon the people of that city. When similar methods are in vogue everywhere against tuberculosis it will flee from us with all of its ghastlp terrors.

"ANTI-BUBONIC HYGIENE IN LOS ANGELES

"The Board of Health of Los Angeles has now nine physicians who serve as medical inspectors, each in charge of a ward at $150 a month. Under each of these are two men (eighteen in all) who serve as sanitary inspectors at $3 per day each. Eighty-one assistant inspectors, nine for each ward, are employed to catch rats and mice. One hundred and forty laborers are employed at $2.25 a day to gather up rubbish and waste, and forty drivers with teams are employed to haul the stuff away at $4 a day each."

Note that this sort of hygienic fighting requires a municipal treasury raid and a free pocketbook by the people.

In marked contrast with the Los Angeles effort against possible bubonic plague invasion, please note the marked apathy of wealthy communities in regard to the stamping out of tuberculosis.

"LACK OF FINANCIAL SUPPORT FOR WORK AGAINST TUBERCULOSIS has just lately been announced by the Committee on the Prevention of Tuberculosis of the Charity Organization of Boston, and it has been obliged to discontinue its work on account of the lack of adequate financial support. Last year this work, which was undertaken as an experiment, was made possible by a fund of $20,000, which was contributed by eight citizens."

If you can secure enforcement by law of the chemical disinfection of all vacated houses before new tenants occupy them, the disinfection of all places of popular assemblage, including hotels, ships, steamboats and railway coaches, and clean washable public streets and alleys, the protection of all edibles from reckless exposure to dust, and you will have conferred a boon on perishing humanity and done much to justify your existence as a medico-legal rescue organization against two of the great scourges of civilization, tuberculosis and syphilis.

Very truly yours,

C. H. HUGHES.

At a meting of the Council held on February 4, 1908, at the office of the Congress, No. 89 Broadway, in the City of New York, every member of the Council present or represented by proxy, excepting Dr. Denslow Lewis, Dr. M. M Smith, Dr. Ramon Bengoechea and Judge Emilio Del Junco, the letter of Prof. Charles H. Hughes was laid before the Council and read by the Secretary. On motion of Dr. Juan J. Ulloa the resignation of Prof. Charles H. Hughes was accepted with the best thanks of the Congress for his able letter.

Mr. Bell then read extracts from the letter of Dr. George R. Tabor, ex-State Health Officer of Texas, to whom he stated the Presidency had been tendered with the full knowledge and approval of President Hughes, which he stated he had received on that day, as follows:

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EXTRACT OF LETTER OF DR GEORGE R. TABOR, OF DALLAS, TEX., IN ACCEPTING THE OFFICE OF PRESIDENT OF THE CONGRESS TENDERED HIM.

OFFICE OF GEORGE R. TABOR,
DALLAS, TEX.
Ex-State Health Officer of Texas.

DALLAS, January 24, 1908.

HON. CLARK BELL,
New York.

MY DEAR SIR:—I am just in receipt of your letter of the 18th inst. addressed to me to "Austin." Please note that I have changed my address to "Dallas, Tex."

I carefully note your proposition and tender of the "Presidency" of the Congress on Tuberculosis, and I am highly appreciative of the honor it carries, and I am not unmindful of the distinction and beg to assure you that I will take pleasure, if it really is the desire of the Council, unanimously, mind you, that I serve, I will accept, and if I am made President of the Congress I will endeavor to fill the position with credit. I appreciate the many kind things you say about me as former State Health Officer of Texas, and I wish to say to you that I am still a young man, and not yet ready to remain quiet and retire. My life is yet before me and I have many political battles to fight in Texas, and they will be fought with all the vigor and energy I possess. If you will advise me what will be expected of me at the Chicago meeting in June, I will be glad to comply, whether I am made President or not, for I expect to be there and participate.

I enclose herewith the names of ten physicians who are my tried and true friends, which you have requested, together with their addresses.

Thanking you again, I am, sincerely,

GEORGE R. TABOR,
Linz Building, Dallas, Tex.

On motion of Dr. Juan J. Ulloa, Secretary of the Congress, the letter was received with the thanks of the Council, and the Council proceeded to the election of a President to fill the vacancy.

The Chair declared that Dr. George R. Tabor had been duly and unanimously elected President of the Congress for the ensuing year.

Dr. Juan J. Ulloa made a report as to the transactions of the Sanitary Congress held in the City of Mexico, of which he was Secretary and from which he had just returned. The communication was received and ordered placed on file.

It was moved that a Committee be named to prepare a brief address to the members of the Congress, in which the main points for discussion at the forthcoming Congress should be presented to the Meeting at Chicago on June 1st, 2d and 3d, next.

Routine and miscellaneous business was then transacted and the Council adjourned subject to the call of the Chair.

J. M. BLEYER, M.D.,
Chairman.

CLARK BELL,
Secretary.

Clark Bell read a paper under the head of Longevity which was ordered printed in the Journal.

The papers were read and discussed.

On the recommendation of the Executive Committee Mr. S. Chait was elected to membership.

The Society then adjourned.

CLARK BELL, President.
J. MOUNT BLEYER, Acting Secretary.

APRIL MEETING.

The April Meeting of the Medico-Legal Society was held at the Waldorf-Astoria, Fifth Avenue and 34th Street, on Wednesday, April 22, 1908, at 8 o'clock P. M., in joint session with the Psychological Section of the Society.

Present: Clark Bell, Esq., in the Chair, and in the absence of the Secretary, Judge William H. Francis was called to the Chair and acted as Secretary.

Mr. Andrew McConnell read a paper on the Electrical Action of the Organs of the Human Body.

Mrs. Margaret Higgins, of New York, read a paper on Pseudo-Therapeutics, describing the clinical work of the heads of the clinics of the European capitals.

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These two papers were discussed together and a very extended, interesting discussion followed which was participated in by a large number of speakers before one of the largest audiences of the season, entirely filling both halls occupied by the Society.

On the call for contributions to the symposium on Alcohol as a Diet, Dr. T. D. Crothers, of Hartford, Conn., submitted a paper which was read by title owing to the lateness of the hour.

The several symposiums were on motion ordered to be kept open for contributions during the whole summer vacation.

The President submitted a paper on Longevity and Its Relation to Usefulness, which was read by title and ordered published in the Journal.

Dr. Charles C. Amende, of New York City, read a paper entitled The Hoboken Poisoning Cases of 1885.

The Society adjourned at a late hour.

CLARK BELL, President.

WILLIAM H. FRANCIS, Sec. pro tem.

MAY MEETING.

The May Meeting of the Medico-Legal Society was held in joint session with the Psychological Section at the Waldorf-Astoria, Fifth Avenue and 34th Street, on Wednesday, May 20, 1908, at 8 P. M.

Clark Bell, Esq., in the Chair. Willis T. Gridley, Esq., acting as Secretary.

The Chair announced that the Assistant Secretary, Dr. Anna W. Bloomer, had resigned as Assistant Secretary.

On motion it was moved and seconded that the Society proceed to fill the vacancy. The Chair held that it was necessary to have a quorum for such action. It was then unanimously moved without objection that the body proceed to the election of an Assistant Secretary in the place of Dr. Anna W. Bloomer, resigned, which was carried unanimously.

On proceeding to the election Willis T. Gridley, Esq., was elected Assistant Secretary by ballot unanimously and the Chair declared him elected and installed in office, and he acted as Assistant Secretary.

The following papers were read:

Psycho-Therapeutics, by Mrs. Vance C. Cheney, of New York.

On the same subject, by Dr. Julia Seton Sears, of New York.

Also by Mrs. W. R. Dix, of Montclair, N. J., and by J. Thornton Sibley, M.D., of Brooklyn, N. Y.

Dr. Floyd B. Wilson took the Chair, as chairman of the Psychological Section, and made an address on the subject.

Dr. H. S. Drayton took part in the discussion.

On motion it was resolved that the symposiums be held open during the summer vacation: Alcohol and Its Use, as a Diet, or for Medical Purposes; Longevity, the Relation of Age to Usefulness, and Psycho-Therapeutics.

The Chair announced that the joint session of the American International Congress on Tuberculosis, announced to be held in Chicago on June 1, 2 and 3, 1908, had been by unanimous consent of the officers of the body, adjourned to the year 1909, to be held at such time and place as should be hereafter authorized by the Executive Committee of said Congress.

It was announced that Dr. Alfred Regensburger, of San Francisco, had been elected in the place of Dr. N. K. Foster, of Sacramento, resigned.

It was announced that Dr. Edward S. McKee, of Cincinnati, had been elected as Secretary of the Congress.

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It was also announced that Dr. Col. Francis T. B. Fest had been elected to a seat in the Executive Committee of the Congress and had accepted.

It was moved and carried that the subject on Pyscho-Therapeutics be continued at the next Session.

Dr. Florence Dangerfield Potter read a short paper communicating the details of the case of Mr. Marsh, of Brooklyn, whose case had come before the Pasteur Institute and who had been notified that he was the victim of hydrophobia, and gave the details of his treatment and the statement of the family as to his being made unconscious by drugs and kept in a state of unconsciousness until his death would intervene, at the request of the deceased.

It was moved and seconded that the Chair appoint a Committee of Investigation, with full power to investigate the case of Mr. Marsh, of Brooklyn, who it was announced had died that afternoon.

The Chair announced as such Committee: Dr. C. O. Sahler, of Kingston, N. Y.; Dr. Florence Dangerfield Potter, of New York; Judge William H. Francis, of Newark, N. J.; Floyd B. Wilson, LL.D., of New York; Albert Bach, Esq., of New York, and the President ex officio, and directed to examine into the facts and report, with power to send for persons and papers.

Dr. T. D. Crothers submitted a paper on the Use of Alcohol as a Diet.

The following were duly elected to membership:

Active Members:—Alexander Potter, 143 Liberty Street, New York; Dr. Julian Seton Sears, Carnegie Hall, New York.

Members of the Psychological Section:—Miss McCaughtrey, of No. 18 West 60th Street, New York; Mrs. W. R. Dix, of No. 20 Clinton Street, Montclair, N. J.

Former member Dr. Florence Dangerfield Potter was restored to membership by election.

There was a very large attendance at the Meeting and the Society adjourned at a very late hour.

CLARK BELL, President.

W. T. GRIDLEY, Assistant Sec'y.

THE MEDICO-LEGAL SOCIETY OF LONDON.

A meeting of this society was held on April 28th, Mr. Walter Schröder being in the chair.

Mr. F. G. Frayling read a learned paper on "Infanticide, Its Law and Punishment and Suggested Alterations." He held that owing to the slight possibility of being able to prove the dead child's previous "separate existence in law" and to the ordeal of the mother committed for trial on the capital charge the crime should be no longer regarded as murder, from which it differed in several particulars; a distinct offence should be created or it should be regarded as a misdemeanor or a felony, otherwise the Prevention of Cruelty to Children Act, 1904, might be modified and applied to the newly born.

Mr. Schröder felt that juries realized that they were often not dealing with the person most concerned; further, the death sen-

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tence was not a deterrent in these cases as it was never carried out.

Dr. Charles A. Mercier thought that the appearance of the accused girls led juries to exhibit a leniency to which they had no claim; he doubted if such girls were so sensitive in nature as was sometimes alleged. The jury might fancy that newly born children were hardly endowed with a conscious being, but such an idea was not present when charges of abortion were considered. The sanctity of human life must be guarded; the death penalty was a real deterrent.

Dr. W. H. Willcox regretted the present attitude of the law which led to proceedings in these cases which were almost farcical.

Mr. John Troutbeck thought that coroners were the only officials who saw what a wicked and important crime infanticide was: they had to deal with the many babies which were cast away. The criminal courts only met cases which could be traced; usually no clue was available. If violence had preceded the attempted concealment of birth the matter deserved to be treated seriously. It was notable that sober married women regarded this offence very seriously and in no case should it be treated as a matter of no great consequence.

Dr. L. Freyberger thought that the need of proving technical "separate existence" should be abolished, as it prevented the law from dealing fairly with the case; sometimes the death might have been the irresistible result of a dominating idea.

Dr. James Maughan believed that insanity of parturition was a possible, if rare, condition. The penalty for the offence of infanticide was at present inadequate in practice.

Dr. C. H. Wise thought that in this as in other matters the public suffered from the subtlety and ingenuity of lawyers. It was absurd for a hiatus to exist between procuring abortion and killing a child after birth. All punishment in legal offences should be sure and certain. The violence exhibited by mothers in some of these cases might be explained by ignorance, terror, and frenzy.

Dr. B. H. Spilsbury urged that medical men might at times have difficulty in deciding whether a child is living or dead, much more difficult would it be for an ignorant woman; evidence of viability should be considered and the presence of wilfulness examined.

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Mr. F. O. Arnold held that infanticide was more prevalent than the criminal statistics would suggest, hence great care should be taken before alterations were made. The conditions of each case influenced the jury more than the strict law applicable.

Mr. Frayling having replied, the meeting was closed.

THE FIRST INTERNATIONAL CONGRESS ON LARYNGOLOGY AND RHINOLOGY.

This body held its first meeting in Vienna April 21, to 25, 1908, under the Presidency of Prof. Chiari.

Prof. von Schrötter, Honorary President, made a brilliant opening speech in honor of Prof. Tuerck and Prof. Czermak of Vienna, who 50 years ago introduced the laryngeal mirror into general use. Credit was given to Manuel Garcia, the famous teacher of singing. A commemorative medal with the portraits of Tuerck and Czermak was presented as a souvenir of the Congress.

The Governor of Lower Austria, heir-presumptive to the Austrian throne, formally opened the Congress and gave assurances of the interest of the Government in the Congress. Representations from many of the European Governments were present but not from countries of the Western Hemisphere.

Short addresses were made at the opening by representatives of different countries.

On the second day the sudden death of Prof. von Schrötter was announced, who had opened the Congress, which adjourned out of respect to his memory.

Prof. Fränkel (Berlin), and Prof. Lermoyez (Paris), presented a conjoint report on the progress of Laryngology and Rhinology in different countries.

Dr. Onodi (Buda-Pesth), Dr. Gluck (Berlin), Prof. Denker (Erlangen), Sir Felix Simon (England), Dr. Heryng (Warsaw), and others, contributed papers.

There were 467 members, 33 from England and Ireland, 28 from the United States, 3 from South America and 2 from Japan, 86 papers were contributed to the Congress. It was

Resolved, that a General Congress be held every four or five years hereafter.

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JOURNALS AND BOOKS.

We give titles and authors of leading medical journals of May and June numbers:

MEDICAL RECORD, May 23, 1908.

A Clinical Study of a Case of Brain Tumor; Operation; Complete Recovery. By W. W. Graves.

Pneumothorax and Posture; the Importance of the Abdominal Posture in Operations on the Pleura and on the Lungs. By C. A. Elsberg.

A Report of Thirty-one Cases of Congenital Dislocation of the Hip-Joint Reduced by Manipulation. By E. G. Abbott.

Sources of Error in Gastric Diagnoses. By C. S. Fischer.

Prevention and Treatment of Cystitis. By P. Pilcher.

Melena Neonatorum with Report of a Case Cured by Transfusion. By S. W. Lambert.

The Differential Diagnosis of Meningococcus Cerebrospinal Meningitis from Other Types of Cerebrospinal Meningitis. By H. W. Berg.

A Plan for Reducing Infant Mortality in New York City. By W. C. Phillips.

The Correlation of Eye Strain and the Functional Neuroses. By H. E. Smith.

Disturbances of Gastric Secretion; a Practical Study. By M. Gross.

Drainage of Wounds. By R. W. Knox.

Some Observations on the Ophthalmo-Tuberculin Reaction. By T. B. Sachs.

NEW YORN MEDICAL JOURNAL, May 30, 1908.

The Management of Self-Limited Disease. By W. B. Konkle.

Conditions Affecting the Proportions of Fat and Protein in Cow's Milk. By L. L. Van Slyke.

Gonorrheal Rheumatism Cured by Seminal Vesiculotomy. By E. Fuller.

The Kidney in Acute Infections. By J. B. Huber.

Notes of the Jungle Plant (Combretum Sundiacum). By W. D. Silkworth.

Extraction of Cataract in the Capsule. By W. B. Marple.

Report of a Case Operated on for Advanced Ectopic Gestation Associated with Fibromyomata Uteri. By S. E. Tracy.

The Bladder in Tabes. By J. B. Squier.

NEW YORK MEDICAL JOURNAL, June 6, 1908.

Expert Testimony. By R. B. Cowing.

The Restoration of the Normal Balance of the Foot. By E. G. Abbott and H. A. Pingree.

The Specific Action of Mercury in Syphilis. By H. G. Piffard.

Intussusception of the Sigmoid. By J. M. Lynch.

Osteomyelitis. By F. H. Albee.

A Simple "Air House." By J. T. Tubby, Jr.

To What Extent is Migraine Amenable to Treatment of the Eyes? By E. M. Alger.

Epilepsy. By B. R. Tucker.

Multiple Conception. By M. J. Karpeles.

THE LANCET, May 23, 1908.

Lecture on the Use of the X-Rays in the Diagnosis of Appendicitis and Some Other Abdominal Conditions. By W. H. Bennett.

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Hunterian Lecture on the Connective Tissue in Carcinoma and in Certain Inflammatory States that Precede Its Onset. By V. Bonney.
Prophylaxis in the Care of Children in Hospitals. By H. Koplic.
Malarial Cirrhosis of the Liver. By E. F. G. Tucker.
The Acute Suffocative Catarrh of Laennec and Other Conditions from Which It Should Be Distinguished. By S. West.
Brief Notes of Interesting Cases of Cranial Surgery. By H. Curtis.
A Method of Suturing the Lateral Recti to Insure Greater Mobility of the Stump After Enucleation of the Eyeball. By E. Clarke.

THE LANCET, May 30, 1908.
Oliver-Sharpey Lectures on the Present Condition of Our Knowledge Regarding the Functions of the Suprarenal Capsules. By E. A. Schäfer.
Hunterian Lectures on the Connective Tissue in Carcinoma and in Certain Inflammatory States that Precede Its Onset. By V. Bonney.
Analgesia v. Anesthesia in Obstetrics and Gynecology. By W. J. Sinclair.
Hemiatrophia Facialis Progressiva, or Facial Hemiatrophy. (Prosopodismorphœa; Aplasie Lamineuse Progressive). By J. R. Williamson.
Treatment of Pulmonary Tuberculosis by a Postural Method, Encouraging Drainage of the Lung and Inducing Artificial Hyperemia of the Apex. By A. T. T. Wise.
A Case of Enteric Intussusception. By F. de H. Hall.
A Case of Pemphigus Vegetans. By C. W. Young.
Motoring Notes. By C. T. W. Hirsch.

BRITISH MEDICAL JOURNAL, May 23, 1908.
An Experimental Inquiry Into the Relationship of Action to Dose, Especially with Reference to Repeated Administration of Indaconitine. By J. T. Cash.
Remarks on the Internal Use of the Oil of Turpentine. By E. Smith.
Address on Puerperal Eclampsia, with Special Reference to Its Treatment with Nitro-Glycerine. By J. M. McCarthy.
On the Causes of Inversion of the Uterus. By L. Atthill.
The Absorption of Ointments. By R. L. Sutton.
On Recent Advances in the Surgical Treatment of Syphilis. By D. Power.
A Case of Ochronosis. By L. C. E. Harston.
Satinwood Dermatitis, with a Suggestion as to Treatment. By F. Gardiner.

BRITISH MEDICAL JOURNAL, May 30, 1908.
Oliver-Sharpey Lectures on the Present Condition of Our Knowledge Regarding the Functions of the Suprarenal Capsules. By E. A. Schäfer.
On Recent Progress in the Serum-Therapy of Plague. By N. H. Choksy.
Cats as Plague Preventers. By A. Buchanan.
Sporadic Kala-azar in Calcutta, with Notes of a Case Treated with Atoxyl. By U. N. Brahmachari.
On Measles. By E. Ward.
The Use of Serum in Scarlet Fever. By H. Cumpston.
Horse-pox Directly Transmitted to Man. By A. F. Cameron.
Primary Pneumococcic Peritonitis. By A. Smith.

DEUTSCHE MEDIZINISCHE WOCHENSCHRIFT, No. 18, April 30, 1908.
A Review of the Etiology and Pathogenesis of Appendicitis. By v. Hansemann, Sonnenburg and Kraus.
The Ophthalmo-Reaction for Tuberculosis, a Method at Present Useless for Clinical Purposes. By Klieneberger.
A Case of Renal Diabetes. By M. Bönniger.

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On the Physiology of the Adrenal Glands and Substances which Cause Dilatation of the Pupils. By R. Ehrmann.

The Demonstration of Fracture of the Base of the Skull by Means of the X-Ray. By A. Peyser.

The Gaiffé-Walter Milliampère Method for Regulating the Dosage of the X-Ray. By C. Schindler.

DEUTSCHE MEDIZINISCHE WOCHENSCHRIFT, No. 20, May 14, 1908.

The Significance of Uterine Inertia. By W. A. Freund.

Investigations on the Preventive Action of Atoxyl in Experimental Syphilis in Rabbits. By Uhlenruth and Weidanz.

The X-Ray Appearances in Tuberculosis of the Apices. By Albers-Schönberg.

The Value of the X-Ray in the Early Diagnosis of Tuberculosis of the Lungs. By Schlayer.

The Employment of the Method of Deviation of the Complement for the Diagnosis of Tuberculous Exudates. By K. Meyer.

Is Müller's Method for the Distinguishing of Tuberculosis from Other Pus by Means of the Millon Reaction Reliable? By H. Dold.

Where is Urobilin Formed? By Fischler.

The Effect of Iodides on the Viscosity of the Blood. By Determann.

A Case of Family Psoriasis. By Notthafft.

A Description of the Pain in Perforation of the Appendix. By Kafemann.

The Indications for the Induction of Abortion in Mental Diseases. (Continued.) By Friedmann.

DEUTSCHE MEDIZINISCHE WOCHENSCHRIFT, No. 19, May 7, 1908.

The Standardization of Dysentery Serum. By Kolle, Heller and de Mestral.

On the Technique of Opsonic Work. By Strubbell.

The Proteid-Fat Diet in the Treatment of Motor Insufficiency of the Stomach. By J. E. Cook.

Alimentary Lactosuria in Diseases of the Stomach. By v. Halász.

The Indications for the Induction of Abortion in Mental Diseases. (Continued article.) By M. Friedmann.

Skin Transplantations for Burns of the Eyelids. By Pfalz.

The Use of Carbohydrates in Infant Feeding and Their Effect on Metabolism. By H. Rietschel.

The Wassermann Reaction in Syphilis. By W. Fornet.

DEUTSCHE MEDIZINISCHE WOCHENSCHRIFT, No. 21, May 21, 1908.

The Diagnosis and Treatment of Mental Diseases in Childhood. By Raecke.

The Indications for the Induction of Abortion in Mental Diseases. (Concluded.) By M. Friedmann.

Parabiosis and Diabetes of Pancreatic Origin. By J. Forschbach.

Two Cases of Pulmonary Disease after Trauma. By W. Baumann and F. M. Groedel.

A Case of Intestinal Emphysema (Pneumatosis Cystoides Intestinorum). By Gröndahl.

The Prognosis and Treatment of Appendicitis. By Gebele.

Acute Glossitis Due to the Staphylococcus. By Pawlowsky.

Keratosis of the Skin and of the Cornea with Congenital Cataract. By Kreibich.

The Use of Quinine in Syphilis. By H. Napp.

The Treatment of Diseases of the Nails by the X-Ray. By C. Schindler.

The Use of the Milliampèremeter in the Dosage of the X-Ray. By H. E. Schmidt.

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DEUTSCHES ARCHIV FÜR KLINISCHE MEDIZIN, 1908, Band 92, Heft 5 and 6.

The Influence of Occupation Upon the Size of the Heart. By Schieffer.

The Influence of Military Service Upon the Size of the Heart. By Schieffer.

Studies of Gastric Motility with Particular Reference to the Distensibility of the Cardiac Portion of the Stomach. By Sick and Tedesko.

Fermentative Intestinal Dyspepsia. By Meyer.

Fecal Fermentation and the Application of Test Diets in a Study of Intestinal Function. By Schmidt.

The Experimental Production of Bone Marrow Atrophy. By Hirschfeld.

Intravenous Strophanthin Therapy. By Hoepffner.

Bedside Study of the Morphology of the Blood. By Wynhausen.

Pressure in Pleural Effusions. By Weitz.

The Use of Tuberculin in Leukemia. By Weitz.

Leucocytotic Blood Changes in Infectious Diseases and Their Physiological Meaning. By Ziegler and Schlecht.

Ring Bodies in Anemic Blood.

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BOOKS, JOURNALS AND PAMPHLETS RECEIVED.

Walter Wyman, Surgeon-General, Washington, D. C.: "Index-Catalogue of Medical and Veterinary Zoölogy."

Annual Archæological Report, 1907, being Appendix to the Report of the Minister of Education, Ontario, 1908.

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PREVENTIVE LEGISLATION AGAINST TUBERCULOSIS.

BY MIGUEL BOMBARDA,

Professor in the School of Medicine of Lisbon, Director of the Asylum at Rilhafolles, Honorary President America International Congress on Tubeculosis, Secretary International Medical Congress of Lisbon, Portugal, 1906; Contributed to the American International Congress on Tuberculosis announced for Chicago, June, 1908.

If it were necessary to note down all the measures, by means of which the State could interfere in an efficacious manner against the ravages of tuberculosis, it would be necessary to include all hygiene. Again, if one would limit himself only to mark down those measures which relate directly to the prevention of the propagation of this disease, one would find a certain number of means which are of an efficacy universally recognized, and which are already made law, in the most advanced legislatures. Here one must mention the obligatory notification of the various health boards of cases of tuberculosis, followed by the disinfection of the premises and the education of the patient and his family in the prophylaxis against the disease, also the disinfection in cases of death or where the patient changes his residence, the isolation in special quarters of tuberculous patients in hospitals, the placing of them in sanatoria, warfare against expectoration, etc. All this is recognized by the whole world; that is to say, by all those who deal with tuberculosis, and all this deals with the war against the tubercle bacillus. These measures fight the contagion. The civilized countries have passed laws all dealing with these matters and one can shortly state that there are countries where legislation is very complete; one could even say, too complete, and there are others, where hygienic measures are just beginning to be thought of. In general, one can say that in these different countries the execution of these measures is in an inverse ratio to the perfection of the law.

In Portugal, for example, all the cases of tuberculosis must be reported to the proper authorities and all the patients suffering

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from pulmonary tuberculosis cannot be kept in their employment nor be employed in any establishment where food stuffs are sold or prepared, nor in factories, studios, offices, hospitals or schools.

The result of these really Spartan laws is, that the law is far, very far, from being enforced.

Besides the reporting of tuberculosis meets all over with great difficulties, partly from the physicians, and again from the family.

It is because the consequence of such a report may become a source of great inconvenience to the patient, and also because the physicians themselves advise their patients in regards to the prophylaxis, which advices are generally followed, while there is a conviction that the official action, namely disinfection, etc., is not in the special cases efficacious. Besides, the sympathy of the physician goes generally towards the patient, and he permits his heart to rule, when really reason alone ought to rule his actions.

To recapitulate, all these prophylactic means adopted by the legislature are of efficacy according to the way in which they are executed.

It is, however, evident that they are unable to stop the disease. The only way tuberculosis can be caused to become extinct, is to treat it in the same way in which one has treated leprosy for centuries, and in which one to-day yet treats the disease of Lazarus in Norway, by absolute isolation of the patients.

But while we are unable to extinguish tuberculosis, we are able to weaken the ravages of this disease, by means of legal steps, which the different governments have caused to be executed by their agents.

Legislative measures against tuberculosis, however, can only be called half measures, as most of them cannot be enforced in practice, without the help of everybody and a constant watchfulness in which each case must constantly be watched from month to month.

This takes a great deal of work with very small results. It needs something which is not so dependent on the good will of the people, something which works more automatically and surer. This is the problem of habitation.

In the prophylaxis of tuberculosis the contagion is the point mostly to be combatted. But even if it is proven that the resistance of the organism against the invasion of the bacillus is the most important fact, we can only direct our attention to the contagion, as the problem of social life and poverty and of racial

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resistance are not things which can be governed by laws alone, no matter how wise they may be. The contagion alone is what we can fight. Life in miserable hovels, crowding together of many people, this means contagion. If we could cause the habitations to be sanitary, if we could make them large and if we could prevent people from crowding together, we could cause tuberculosis to become more rare.

In fact, in England one has seen that through the reconstruction of the homes of the poor, in those quarters in which the workingmen live, those especially constructed in London by the County Council, the mortality due to tuberculosis has become enormously less, in fact a great deal less than the general mortality in the rest of this city.

In fact, we have the researches of Romberg, of Flaedicke, of Marcuse, Juillerat and others, which show that it is the way people crowd together which influences the mortality rate of tuberculosis, no matter whether these people live in rich or poor quarters, and the researches of Kohn show the death-rate of tuberculosis grows in the same proportion in which the number of people to the room grows, the analysis of Bertillonalso showing, that if tuberculosis increases in even ratio to the poverty of the surroundings (Berlin, Vienna, Paris), that the same rule can be also notified in all infective and contagious diseases, with the exception of typhoid, which is evidently the least contagious of all these diseases. This shows that the easier the contagion, the more numerous the number of cases of the disease.

Therefore, what is necessary is to enlarge the poor quarters. To build healthy living apartments for the working classes. What is necessary is that the government enable the different municipalities to reconstruct, to rebuild the poverty-stricken habitations.

This is to be the special purpose of any legislation to fight tuberculosis. This is what England has aimed at already since a long time by means of successive acts of the legislature, to cause the poor districts to be made sanitary, and only lately a new bill has been submitted by the Minister Burns for the purpose of yet broadening their action. Therefore, London especially has, during the last ten or more years, seen its general and tuberculosis death-rate decrease very largely.

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ANIMAL EXPERIMENTATION IN SCIENTIFIC RESEARCH.*

BY CLARK BELL, ESQ., LL.D.

Legislation in restraint of scientific experimentation on animals in aid of the acquisition of useful knowledge in Pathology, Physiology and the treatment of disease, is now brought before the New York State Legislature, emanating from an association of ladies, styled, "The Anti-Vivisection Society," by a bill known as the "Johnson Bill," which seeks to arrest scientific research in our laboratories by students of Physiology, Pathology and Therapeutics, by a provision of law that experiments on animals should at all times be open to the inspection of agents approved by an authorized humane society, and a bill known as the "Lee Davis Bill," designed really to stop animal experimentation in aid of scientific knowledge by means of animal experimentation.

Both measures are based on the assumption that the students and medical men thus engaged, in pursuit of reliable data from this source, are cruel, inhuman and brutal in the discharge of their duties, and that the learned professors now occupied in this interesting work are, and have been conducting it in an inhuman, brutal, cruel and wanton manner, so atrocious and barbarous as to actually demand the intervention of the law to protect the American people from disgrace and obloquy.

A hue and cry has been raised and the public press or one or two journals have been found to lend the great and powerful influence of the press to this wholesale indictment of honorable, humane, and most exemplary students of this branch of scientific research, and so far as has been shown without the slightest foundation in fact.

The present law is ample to punish any one who should so conduct animal experimentation in a way, to at all justify such an accusation.

So far as we are able to learn, not one case has occurred in this state which has given rise to any complaint from those scientific workers in our laboratories, who would be the first to make the charge of inhumanity, or cruelty in making their experimentations.

* Read before the Medico-Legal Society, March session, 1908.

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In Missouri, last year, one such complaint was made, and the man who did it was promptly indicted, tried, convicted and punished for it, as would be done here under our statute, if such a case had occurred, which it is safe to say, has not occurred.

It is also quite safe to say that our present law is ample to punish such a case, should one arise.

The real motive of the movement is to stop animal experimentation by such legislation as would prevent its use for the acquisition of human knowledge in scientific exploration and endeavor.

It rests upon ignorance of the facts of the issues involved and a mistaken sense and view of what is the essence of humanitarianism and what is pre-eminently proper and commendable.

Lamartine vividly describes his sensations when he first saw a calf killed by the butcher—Madame Belais would suffer as did Lamartine at such a spectacle or at witnessing a post-mortem of a relative. Few ladies could see this operation without fainting.

Yet, calves must be slaughtered by the million, and autopsies held, and we are not to allow our emotion to insist on laws forbidding the slaughter of the innocents though rivers of blood flow, but we can ask our ladies to stay away from the slaughter houses and not witness autopsies, amputations or bloody surgical operations.

It is not only absurd, but an outrage upon a noble profession to assume that its members are inhuman, cruel, brutal or bloody minded.

The killing of a calf by cutting its throat with a knife is a thousandfold more bloody and horrifying to the human spectator, and much more cruel and apparently brutal than any ten operations in vivisection, when the work is in the hands of skilful, humane, intelligent and learned men acting on a high and powerfully incited duty, pursuing a careful, conscientious study in useful scientific research for noble and praiseworthy ends.

England has made a most terrible mistake in listening to much such a cry as has now been raised by emotion and misguided and ignorant sentimentality, and do not let us fall into the error she now must lament.

Let us listen to what the most eminent and illustrious names on the roll of the greatest of British scientists have said on this subject. Lord Lister, one of the ablest of the British scientists, in speaking of the English act in restraint of animal experimentation, said:

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"The act resulted in 'hampering and sometimes entirely preventing legitimate and beneficial investigation.' In his opinion it serves no good purpose and interferes seriously with inquiries which are of paramount importance to mankind."

Is it not a reproach upon English civilization and progress, that the eminent scientist, Sir Lander Brunton, has been compelled to publicly state, "it has interfered to an enormous extent with physiologic work," and to add as a reproach upon the laws of his own country: "In some of my investigations, the object of which was simply to find out what the action of certain medicines was, I have been obliged to go to Paris to carry on my research in a foreign laboratory?"

The greatest of the English physiologists is beyond all question Sir Michael Foster, who has spoken as strongly in condemnation of the act after he had had sufficient time to judge of its consequences. He said:

"If the time were to come over again I would fight tooth and nail against any act at all, on the ground that all such legislative restrictions are unnecessary; that instances of cruelty—that is, of heedless causing of pain on the part of physiologists—are, to say the least, rare, and that public opinion aided by the ordinary law, is quite sufficient to cope with such cases."

This same Sir Michael Foster wrote later to a professor in one of our universities:

"My advice to you is, accept no compromise whatever; refuse to admit for a moment the need of such a law and fight against it everywhere."

The tendency of the modern medical mind might be to temporize and yield to some mild and unimportant obstructive means in a conciliatory spirit. This would be a fatal mistake as the issues are now framed.

The whole dignity of the medical profession is assailed. If restrictive laws were proper, much less necessary, the suggestion should come from the medical profession.

The estimable lady who is the President of the Anti-Vivisection Society, Mrs. Belais, has given her opinion upon the medical profession, upon the subject and its relation to the whole enormous advance made in scientific knowledge by this means in her last effort made publicly in this vein:

"In my opinion, it is not too much to say that a man who has become accustomed to experiments on animals would not hesitate

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to experiment on the human being if he got a chance. . . . The man who would deliberately infect a dog with rabies to test a new kind of cure for hydrophobia might easily be capable of infecting a human being with the same or a worse disease. . . . Think of the limitless opportunity afforded by the free dispensaries and wards. . . . and how much greater the joy of the investigator in having a human being upon whom to experiment instead of a mere dog! Vivisection certainly will lead to such experiments, if it has not done so already. . . . It is against such dangers as this that the anti-vivisection war is being waged."

Is this the tone and temper in which a great public question should be discussed?

Charles Darwin was surely the most humane of men. The New York *Sun* quotes this eminent man on the questions raised in England by the restrictive measure there that has done so much harm to scientific progress and endeavor, from which we make extracts:

Charles Darwin, the most humane of men, was not far wrong in his forecast of the consequences of indiscriminate lawmaking in this matter. "If stringent laws are passed," he wrote in 1875, "and this is likely, seeing how unscientific the House of Commons is, and that the gentlemen of England are humane, as long as their sports are not considered, which entail a hundred or a thousandfold more suffering than the experiments of physiologists—if such laws are passed, the result will assuredly be that physiology, which has been within the last few years at a standstill in England, will languish or quite cease." Darwin, with all other thinking men and women, abhorred the cruelties of idle investigators. The idea of vivisection "for mere damnable and detestable curiosity" made him, he said, "sick with horror." But he was quite unable to see the justice of restricting research. At first he did think well of the proposal to forbid experiments on animals except in public laboratories, but on further reflection he concluded that this would be "a great evil." Nor did he believe that an arbitrary distribution of licenses was desirable, for "I do not see," he said, "who is to determine whether any particular man should receive one: it is the young unknown men who are the most likely to do good work." Darwin, moreover, saw clearly the mischief of dictating to the physiologists and limiting their investigations in physiology to points which had an obvious and immediate bearing on questions of health, for "judging by all

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other sciences," he said, "the questions will accrue only indirectly in the search for abstract truth." The notion that experiments should never be tried unless some immediate good could be predicted he described elsewhere as "a gigantic mistake contradicted by the whole history of science."

And finally Darwin's dictum, "that he who retards the progress of physiology commits a crime against mankind."

If one would carefully collate the facts added to the sum of human scientific knowledge within the last sixty years or even forty years, it would fill volumes in every branch and domain of Pathology, Physiology and Therapeutics. What it has gained has been facts, truths, light; not theories! Not opinions! Who was more competent to speak than that luminous name in Physiology, Huxley, who said: "That not a single one of all the great truths of modern physiology has been established otherwise than by experiments on living things."

Pain is not man's enemy—it is the legacy of the race.

Life opens to all in pain, the most intense that woman endures, and man only witnesses but cannot feel its agony.

If the human race can reach a higher summit upon the Alps of human endeavor through experiments upon animals, is the pain endured by the animal which we kill by millions without a thought, for our food and pleasure or even a whim, to weigh a feather's weight in the consideration of a problem fraught with the progress of scientific attainment, when the goal is the welfare of mankind?

I quote approvingly the resolutions adopted by the Health Committee of the City Club on the 11th of March, 1908, presented by Dr. Edward G. Janeway, and adopted unanimously:

"Whereas, Animal experimentation has been and is indispensable to the progress of medical knowledge and the prevention and cure of disease, therefore be it

"Resolved, That in the opinion of the committee on public health of the City Club the present law regarding animal experimentation and vivisection is amply sufficient to prevent abuses, and additional legislation tending further to regulate such practice is unnecessary and undesirable."

And I recommend similar action by this Society, and that the Law Committee of this Society advise the Legislature of the action.

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LEGISLATION ON VIVISECTION.

BY DR. J. MOUNT BLEYER, LL.D., F.R.A.M.S., OF NEW YORK, VICE-PRESIDENT MEDICO-LEGAL SOCIETY.*

The great brain of the modern arch philosopher, Spencer, formulated this sentence: "Add to the power of discovering truth, the desire of using it for the promotion of human happiness and you have the great end and object of our existence."

If the question of vivisection be placed in the balance and weighed against all the prejudices by those who are agitating for the legislative prevention and regulation of vivisection, it will outweigh any arguments that may be brought up against it. No one doubts that the modern science of physiology is the very kernel and fundament of modern practice of medicine and is the result of the labors of thousands of the ablest men for years back. Should we allow with one sweep of the pen a law to become a menace to modern scientific research in this State? If the people of this State desire to undertake to place such an obstacle in the way toward the progress of medicine—let it be thoroughly aired by the judges of science who are in a position to do so. If we are to be judged for our wrong doings, let us be judged by our peers and not by fanatics, humanitarians and pseudo-scientists. The Legislators of this State should take heed how they are imposed upon by these people who are agitating anti-vivisection. The gentlemen who are in the power in aiding to make this new law against vivisection should deliberate long and carefully, weigh every point connected therewith, before they attempt to put in the way of progress such a new law prohibiting vivisection. Consider, lawmakers and agitators against vivisection, that this undertaking is a most vital question of the hour and we should take our cue from men who are versed in the science and not from such as are trying to appease their vanity and idiosyncrasy.

Let me suggest to the gentlemen who are in the power to make the laws for the people, to deliberate long and carefully before they place in the way of modern science such an obstacle to its further progress. They should consider that the passage of such a law is a most vital question of the hour and should take their

* Read before the Medico-Legal Society.

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cue from men who are versed in the sciences rather than from humanitarians, fanatics and pseudo-scientists. The framer of such a law should beforehand make himself well acquainted by studying the question from all its scientific aspects before even an attempt be made by him to bring it before the body of law-makers. I am certain that no legislator or framer of such a law would lend himself to attempt the passage of it after an even short study of the subject before him. I doubt that the gentleman who is fathering this law at Albany gave any special attention to the subject at all, but is securing this from a mere sentimental point of view, and the pressure brought upon him from a similar class of people.

It requires years of study to even comprehend the simple essential principles upon which the broad study of physiology stands today. No single-handed man should dare to bring before our law-making body such an important question without consulting and getting the consensus of opinion of the scientific world. It is a crime against humanity as well as the brute creation; they, too have received the benefits from our experimental physiological studies.

It takes volumes to relate what scientific physiology has taught us alone from vivisection. One need but take up chapter after chapter of modern physiology to be at once convinced that without vivisection our large storehouse of knowledge would have been nil. Vivisection is the very essence of all our vast and enriched accumulation of facts and without it all would have been a chaos!

Shall we allow mere sentimentalism, fanaticism, to interfere with the grand march of the 20th century of progressive science of medicine? No sane legislators, when the hour comes to the reading of such a framed law, will, I hope, allow themselves to be deluded into voting for its adoption. If any man who has studied the science of medicine has the audacity of entertaining even an atom of an idea against vivisection he should be placed in the custody of an asylum. For he is unfit to be allowed to practice medicine, and is a dangerous man to the public.

I am against the wholesale practice of vivisection—but where it is necessary to ascertain a physiological fact, by all means allow nothing to stand in the way for the benefit of humanity.

To the medical profession, as matters now stand, nothing is of more importance than the dissemination of physiological knowl-

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edge. Empiricism cannot flourish as it did had the structure and functions of the body of man not been better understood. How many advantages would even arise if the simple elements of this science were made a part of the general education! What branch of knowledge has intrinsically a better title thereto?

Such a diffusion of physiological knowledge would tend to a repression of Empiricism. The great physician of the future will be only the great physiologist. That a great revolution is impending in the modern practice of medicine, no one who is at all observant of the progress of science can doubt. He who can best correct the imperfections of a machine is he who best knows its structure and action.

Why is it that from astronomy, chemistry, mechanical engineering, and such other subjects, Empiricism has disappeared? Is it not because exact knowledge has taken the place of speculation and mysticism and the delusions of astrology, alchemy, and magic have been unable to maintain themselves against simple truth? And so of the numerous medical impostures of our time, they will die out as an exact knowledge of the structure and functions of man prevail.

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SOME OF HUMANITY'S DEBTS TO VIVISECTION.*

BY R. W. SHUFELDT, M.D.

On the evening of the 19th of February (1908) the Medico-Legal Society held one of its regular meetings at the Waldorf-Astoria Hotel, upon which occasion the present writer read his paper dealing with the question of vivisection and its detractors. In that communication the subject was dealt with in a very general way, the whole making too lengthy a contribution to reproduce in this journal, so, through the courtesy of the Society and Dr. Clark Bell, who presided at the above-mentioned meeting, I have been permitted to have my original paper printed elsewhere, while in the present article it is my aim to incorporate the main facts that were set forth in the paper that was read at the Waldorf-Astoria, but more particularly do I wish to elaborate those points that go to demonstrate what medical science has gained for the world and for humanity through vivisectional researches in times past, and the enormous benefits that continue to flow from such operations in the present.

It has been a matter of the greatest amount of surprise to me lately to note the names of some of the most distinguished physi-

* Read at the March meeting of the Medico-Legal Society, March 18, 1908.

cians and surgeons in this country, as well as in Europe, associated with those who please to call themselves antivivisectionists in this old controversy, which has of late been revived on their part with all the asinine mental density of the inquisitional attacks of the enemies of science in the fifteenth century, and, it would seem, with quite as much venom and vigor. If those great surgeons and physicians have said the things that the antivivisectionists allege that they have said against the practice, and it seems quite incredible in some instances,—why there can be but a few explanations for their attitude. They have either no knowledge of vivisection, never having enjoyed the advantage of laboratory research; or, their time being taken up with their enormous practices, they daily and unthinkingly use the facts that vivisection has

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given to the world, never questioning how they were obtained, by whom, or when.

To-day vivisection covers a very wide field of scientific experimentation, as it not only includes experimental cutting operations upon man when justifiable, but more particularly upon various forms of animals below man,—for it likewise takes into consideration such similar experimentation, whether it be to advance our knowledge of surgery, medical practice, midwifery, the action of drugs and poisons, physiology, pathology, the relation of living beings to their environment, and other lines of research, to each and all of which it has been the main factor of advancement since vivisectional methods were first instituted.

Every profession has within it its constituency of the narrow-minded and the semi-informed. Medicine forms no exception here, and the antivivisectionists have drawn upon this constituency for some of its recruits. In some instances the bait of widespread notoriety was more than their light-weight brains could resist. Apart from this contingent, the main body of antivivisectionists is made up of sentimental women; pseudo-humanitarians; and representatives from various religious organizations, with a moderate mixture of the arch enemy to society and all other progress, the vice suppressionists.

At the outstart, I desire to say upon my own responsibility that, in the main, the representatives of the great army of doctors of medicine of the various civilized countries of the world, both living and dead, are not, nor have they been, of an ignorant class, nor of a class given to brutality, and to the performing of experiments upon living animals for the sole purpose of giving pain, and the amusement it afforded them. The sane in our community I think will readily admit this, whatever the antivivisectionists may think.

Then I desire to state, and again entirely upon my own responsibility, that the practical benefits conferred upon man and other animals which he has domesticated, through what has been learned and derived from vivisectional researches, is, in amount, absolutely incalculable. These benefits are actual and ever upon the increase. That this is true, medical evidence and medical statistics prove beyond the slightest peradventure of a doubt, and in the most incontestable manner possible.

No science can advance without continuous experimentation,

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and it must of necessity experiment with the materials which in the case of any particular line of scientific research it studies and deals with. In its broadest sense, the science of medicine deals with life, therefore in its experimentation it employs such material as possesses life. The physiologist could add nothing to the knowledge of his science by experimenting with the materials used in investigation by the photographer, any more than the scientific photographer could in any way advance the acquired knowledge of his science through vivisectional research. Now my advice to the entire body of antivivisectionists,—apart from those great and unthinking surgeons and physicians who have joined their ranks in the world at large, and in this country and in England in particular, is to attend to their own affairs, and let the doctors and their researches alone, for, as a matter of fact, they have no real knowledge of the necessities of either. If they really must exert their efforts to prevent cruelties to dumb animals let them turn their attention in other directions, as, for example, the cattle branding corrals on the western prairies; the ostrich farms; the restaurants, where thousands upon thousands of animals are boiled alive daily; and many similar hotbeds where unnecessary cruelties are performed, and have been performed for ages past. The examining into such operations as these falls directly and legitimately within the proper sphere of their action. Taking the sum total of the amount of pain and cruelty inflicted through the branding with a big iron brand, heated to a white heat, of thousands upon thousands of innocent little calves in this country, so far outweighs all the pain that has ever been felt by animals in the vivisectional laboratories of the world, that the latter need hardly be considered at all in comparison. And, mind you, this branding is done without the mitigation of any anesthetic, and makes only as a factor in the satisfaction of man's greed, while the facts acquired through vivisectional research make for the ultimate alleviation of suffering in both man and other animals for all time; and in all parts of the world into which the knowledge thus obtained may be extended.

Without mentioning any names then, I prefer to propound a few questions to those great and distinguished British and American surgeons and physicians, whom it is alleged have joined the ranks of the antivivisectionists, and who, as a body, subscribe to the statement that neither medicine or surgery, physiology or pathology, therapeutics or hygiene, have ever, in any way, been

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advanced through what we have gained by vivisectional experimentation in the broadest sense of its meaning.

These gentlemen will admit, I think, that it is of importance for us to know of the properties of the *pancreatic* juice, and the part it plays in digestion. Would it have been possible to have gained, up to the present time, such information from studies of our own species? Would the law have allowed it, and could constant demonstrations be made to medical students every year in the schools? Most emphatically, *No.* And had it not been for Bernard's brilliant vivisectional experiments upon living animals, and the forming of pancreatic fistulæ in dogs, and thus obtaining unadulterated specimens of the secretion, we would know little or nothing to-day of the nature and action of the pancreatic juice, —practically nothing.

It will be admitted that it is important for us to know the exact and every action of the heart. Was not the demonstration of the shortening of the ventricles during systole made through vivisectional experiments on the lower animals, as dogs and frogs; and could this fact, so long debated, have been proved in any other way? Here we must use woorara and administer no anesthetic. How about what we know in regard to the circulation of the blood, and the formation of abscesses? We would have been almost in the dark here had it not been for our examinations and experiments with the lower animals.

It is very important for us to know something of the nature of the *pressure of the blood in the arteries; the pressure in different parts of the arterial system;* the influence of respiration upon circulation; the *rapidity* of the circulation of the blood; and a great deal more referring to this most vital fluid. How have we come by nine-tenths of that information? Distinctly through vivisectional experimentation, upon living animals performed in hundreds of laboratories in various parts of the world. The experiments were of such a nature that they would never have been permitted in the case of man.

Have we learned nothing about the veinous circulation through vivisection? And how about what we know of the *respiratory* sense in the study of *respiration?* It was settled by Volkmann in 1841, and entirely through operations upon dogs; we might have waited until the crack of doom and it would never have otherwise been revealed to us.

How about Bernard's experiments upon dogs in his studies

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of the nature of saliva? Could these have been performed upon the human subject, and was nothing learned through vivisectional experiments in regard to these very important secretions? The physiology of *deglutition* is surely an important thing. How about the experiments of Longet upon living dogs in this matter? Half our knowledge or more is here due to vivisection. The formation of gastric fistulæ in living dogs, and the continuation of such experiments, is absolutely indispensable for the scientific study of the properties of the gastric juice, and the study of the entire question of digestion. Will any sane person question for an instant what a thorough knowledge of digestion means to the medical practitioner? More than four-fifths of that knowledge has been gained through vivisectional research. So great is the bulk of this knowledge that even the importance of Dr. Beaumont's studies of the gastric juice in the case of Alexis St. Martin sink into insignificance beside it.

What would we know to-day if the physiological action of the intestinal juice in digestion were it not for the careful vivisectional experiments of Colin, of Frerichs, of Bidder and Schmidt, of Busch and a host of other observers in the same direction? Little or nothing. All this important physiological knowledge was accomplished through vivisection. The same may be said for our knowledge of the functions of the liver, and the action of the *bile*. Pray what would we know about such an important fluid in the economy as bile, had it not been for the hundreds of experiments that have been made by distinguished investigators upon living animals? Has the employment of biliary fistulæ in dogs brought us nothing here? Were the experiments of Schwamm of no value? Could the examination of the human subject alone given us any information in regard to the properties and action of *bile?* Is the knowledge of the influence exerted by this fluid of no importance? What are the great and distinguished surgeons and physicians in the ranks of the antivivisectionists thinking about?

Almost our entire knowledge of the physiology of the intestines and intestinal digestion we owe to vivisectional experimentation,—and what we learned from animals in this matter, was, as we know, confirmed in at least one instance in the human subject by Professor Busch.

Nearly everything we know of the physiology of the spleen, kidneys and the superenal capsules has been acquired through

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our studies of these organs in the lower forms of animals. The removal of the spleen in a live dog was performed as long ago as the year 1687 and is described in the works of Malpighi, and the operation has been done hundreds of times since. We have a great deal to learn yet, with respect to the physiology of such glands as the thyroid, the thymus, and the pineal, so we can ill afford to part with such little information as we possess, much of which has come to us through vivisectional investigation, as every informed physiologist well knows.

When we come to study the literature of such a highly important subject as nutrition, we find it simply overflowing with facts that were obtained through a study of the physiology, by vivisectional means or otherwise, of the lower animals, and applying such knowledge to our own economies. The experiments of such investigators as Boussingault, M. Claude Bernard, Magendie and Bernard, who introduced thermometers into the heart of a living horse; Herwig performing the same operation on a calf; and a score more most distinguished physiologists, having given us much that we know about animal heat. In fact more than half we know about animal heat we have obtained through experimentation upon the lower forms. Will any antivivisectionist question for an instant the importance of a knowledge of animal heat?

When the floor of the fourth ventricle of the brain is irritated artificial diabetes is produced, and we find sugar in the urine. The experiment is in nearly all instances made with rabbits; the operation is almost entirely painless, and is seriously interfered with if we administer an anæsthetic or woorara. This experiment throws a very important light upon the glycogenic function of the liver, and I have yet to meet with a man or woman who were willing to allow me to perform the operation upon them, no matter what the knowledge meant to medicine or otherwise signified. Its value rests entirely upon a vivisectional experiment and Flint has said of it that the "production of diabetes in this way, in animals, is exceedingly interesting in its relations to certain cases of the disease in the human subject, in which the affection is traumatic and directly attributable to injury near the medulla." Many women faint when they see the inustrument pushed down into the living animal's brain; antivivisectionists throw up their hands in holy horror; and the sentimentalists rush in to pass a bill to prohibit such brutalities. Most laymen are

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laboring under the impression that to cut the brain is the most painful operation that can be done on any living subject. Cutting the brain in a live person in no way influenced by an anæsthetic gives rise to no pain at all. In the case of a gunshot wound of the head, I have taken away a teaspoonful of brains in an un-anæsthetized man, and he never so much as flinched or felt it. Surely it is important to know all we can about such a disease as diabetes; almost any one will admit that.

We owe to experiments upon living animals or those recently deprived of life nearly all we know of the physiology of the muscular system, as is shown in the well-known experiments of such able investigators as Masey, Longet, Dr. Brown-Sequard, Helmholtz and others.

In man as in other vertebrates there is no more important system in the economy than the nervous system, indeed one might in truth say that it is the most important system of the body. Has our knowledge of the nervous system, in health and disease, been added to in any way through vivisectional experiments upon the lower animals? If I may be permitted to answer this question, I would say that were we to eliminate from our present knowledge of all we know of the nervous system what has been gained through the investigations upon living animals, both with and without anæsthetics and woorara, of such brilliant and talented experimenters as Sir Charles Bell, Magendie, Müller, Shaw, Waller, Bernard, Brown-Sequard, Matteuci, Chauveau, and a host of equally eminent observers since, the amount of information we would have left would be about co-equal with what physiologists knew of that system two and a half centuries or more ago. It would have been simply impossible to have gained what we here know through experiments upon human beings, and I defy anyone to demonstrate that I am wrong in this statement—be he or she layman or laywoman, antivivisectionist, or doctor of medicine. What we know of the nervous system through vivisection has simply relieved either in whole or in part an endless amount of pain in millions of human beings and other animals in times past, and will for all time to come. What I have just said in regard to the nervous system applies with greater or less truth to every department of surgery and medicine entailing the relief of physical and mental suffering in man and thousands of ferine and domesticated animals below him.

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Space limitations will prevent me from pointing out the incalculable benefits to humanity that have flowed from vivisectional experimentation in the testing of drugs and poisons; in surgical researches; and in half a dozen equally important fields of my profession. This I may do upon some future occasion, but for the present I must close here.

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THE MOST EFFICIENT METHOD FOR THE DIAGNOSIS OF RABIES AS EMPLOYED AT THE RESEARCH LABORATORY OF THE DEPARTMENT OF HEALTH OF THE CITY OF NEW YORK.*

BY ANNA W. WILLIAMS, M.D.
Assistant Director of New York City.

The question of the rapid diagnosis of rabies has always been, of course, an important one. There are many cases where the clinical history of the biting animal is doubtful and where an immediate diagnosis means much for the peace of mind of the person bitten, as well as for deciding whether or not treatment shall be given.

Pasteur and his followers had to reply for diagnosis upon animal inoculation from which results cannot be obtained for at least ten days and may not be known for six weeks. The histological changes observed prior to 1903, though suggestive, were show to be non-specific. At this time (1903) some of us in the Research Laboratory began the study of the etiology of the disease, a study which must always be intimately associated with that of diagnosis, and we had already observed the bodies described by Negri when his work appeared.

It seems strange that the specific cause of this disease should have eluded so long the search of the experimenter, since such favorable conditions exist for studying it and for proving results.

Pasteur and his followers showed that the pure specific virus exists chiefly in the gray substance of the central nervous system, and that most of our laboratory animals are susceptible to inoculations of this infectious substance.

A very different state of affairs from that existing in some of the other infectious diseases of unknown origin; in scarlet fever, for instance, in which even yet we do not know the chief

* This paper is taken from reports already published in the *Journal of Infectious Diseases*, 1901, III, 452, and the *American Journal of Public Hygiene*, 1908, XVIII.

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site of the virus, and to which, so far as we know, none of the lower animals, with the possible exception of monkeys, are susceptible. Hence, in this disease our observations are narrowly limited to its course in human beings; in variola, again, though we know the chief site of the virus and have susceptible animals for experimental purposes, we have to reckon with infection from other organisms.

In rabies, on the contrary, we know that the virus exists and increases abundantly in some part or parts of the gray matter of the brain and spinal cord; we know that we may obtain with comparative ease almost any amount of this infectious gray matter free from all known organisms; and we know lastly that by inoculation of this pure virus, we may produce the typical disease in dogs, cats, rabbits, guinea pigs, mice, rats, and a host of other animals.

Notwithstanding these immense helps to study, nothing that could be corroborated was found until 1903, when the Italian observer Negri, described certain bodies in the large nerve cells of the gray matter throughout the central nervous system.

These bodies Negri thought were protozoa and the cause of rabies, but he did not produce enough evidence to prove this contention, neither did the others immediately following him, who corroborated his work. He claims, however, that the bodies are specific for rabies and can thus be made use of in diagnosis, has held and has become strengthened from time to time as different observers published their results. Up to the present time there have been several thousand cases reported in all, and there has been no dissenting voice as to the value of the typical "Negri bodies" in diagnosis.

In our own laboratory we have studied over 800 cases, including the experimental ones (among these there have been nine distinct species of animals).

For some time we have been so certain of the specific diagnostic value of these bodies, that we no longer inoculate animals in cases where the bodies are demonstrated.

The question of greatest interest in connection with the bo lies is. What are they? Are Negri and those who agree with him right in thinking them protozoa, or are the observers who believe them degeneration products nearer the truth?

We continued our studies on this subject with the special object of solving this problem and as a result developed new meth-

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ods in microscopic technic whereby the time required for the diagnostic examination was much shortened.

Most of the morphological studies of these bodies prior to our work had been made from cut and stained sections of the infected material. In such sections especially by the technic first in use, the structure of the bodies did not come out at all well. We showed in 1905, that by making spreads or smears of the gray substance, and by staining these in a special way the bodies appeared clearly and characteristically structured, and well differentiated from the cytoplasm of the nerve cells.

We studied the structure of the bodies in different stages of the disease and in different species of animals, and found enough forms to demonstrate a complete cycle of development, corresponding to that of many known protozoa, notably those belonging to the group Rhizopoda, with the chief nucleus in the center and the chromidal granules surrounding it. The structure brought out by this method is, I believe, the nearest approach to the actual structure that has been demonstrated.

This work of ours has been corroborated by Frothingham, Bohne, Lentz and others, as far as the efficacy of the method, and the appearance of bodies is concerned, but all of these authors hold back still from expressing a decided opinion in regard to the nature of the bodies.

Other observers are not so backward in coming to a decision. Manouelian, Remlinger, Van Gieson and several more say that the forms are only degeneration products of the nerve cells, but they produce no evidence in proof of their opinion.

If the Negri bodies are degenerations, and one must consider this possibility until absolute proof of their being living organisms is furnished, an hypothesis that might approach an explanation of their situation and structure is that of passive absorption of parts of degenerated nerve cells.

Unfortunately for correct deductions from morphologic study alone, the type of structure in degenerated cells or neucli or other parts of cells as well as in many protozoa, is often a central chromatin granule with surrounding granules, just such an arrangement as is frequently found in the Negri body, and as the large nerve cells are surrounded and transversed by lymph channels it is easy to conceive of the possibility of degenerated and broken up nerve cells being carried with neighboring cells through these channels. I thought of this possibility early in these studies, and

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carried through a series of observations on guinea pigs, inoculated with rabbit fixed virus, for the purpose of watching the changes in and disposal of the degenerated cells, of which there are many under these conditions, especially about the point of inoculation; and though some of them roughly simulated in appearance, certain forms of the Negri bodies, they were on the whole very different. I saw no evidence of their being carried into the nerve cells. On the contrary, in this study I found that the Negri bodies appeared simultaneously over the whole brain, at the time that the brain became infective; that at first they were very tiny, and that they became larger as the disease progressed until they showed large fully structured forms. Therefore, this study added to instead of taking from the evidence already in favor of the protozoan nature of the bodies.

Until more evidence is brought out in favor of the degeneration hypothesis, the burden of proof rests with those who do not believe in the protozoan nature of these bodies.

The hypothesis that the large "Negri body" contains the tiny specific organism and that the rest of the body is only the result of the host cell reaction has been considered by some.

Whatever the final decision in regard to the nature of these bodies the question of their specificity has been practically proven.

The mass of workers agree with us in finding that in all work controlled by careful animal inoculations, typical rabies always develops in animals inoculated with material showing definitely-structured Negri bodies.

Negative results after inoculation with such material must be interpreted by us at present as due to some error in technic, such as regurgitation or hemorrhage at the time of inoculation, emulsion improperly made, not enough of the virulent material taken because of localization of the organisms, etc. Possibly individual resistance of the animal inoculated might play a part. We have used principally guinea pigs, and some of them have shown enough irregularity in regard to the time in which they have come down with the disease to suggest a varied individual susceptibility, if other factors can be ruled out.

So far, however, I have stated, we have gotten no negative results with material showing Negri bodies.

On the other hand, some material in which we have failed to demonstrate typically-structured bodies has produced rabies. All of this material, however, since we improved our technic, has

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shown suspicious small forms similar to those found in rabbit fixed virus. But any decomposing brains may also show in smears, bodies very similar to these tiny forms, therefore, it is difficult to rule out rabies in such cases. Such cases have become less frequent with the improved technic, and if, as we believe, the Negri bodies are living organisms, there is strong reason to hope that in time we may clearly demonstrate in smears the presence of these tiny specific forms.

Until such a time, however, animal inoculations must be used in these cases. Of course, the animal test will probably always have to be used with brains that are too decomposed, for the recognition of any formed elements except bacteria, unless a reliable chemical test can be discovered.

So far with us, fresh brains showing no Negri bodies and no suspicious forms have not produced rabies, but a few observers have claimed that such material has produced the disease. Therefore, until we can reach a unanimous conclusion in regard to this point, we must in all such cases use animal inoculations. We may, however, be reasonably certain that a case showing such negative material was not a case of rabies.

It is possible that some of these doubtful cases if killed early in the disease, before there has been time for general development of the virus in the brain, may have virulent sputum. The virulence of the sputum is said to be due to the passage of the virus through the salivary glands. We are now carrying on a series of experiments to test the comparative virulence of these glands and the brain in true and doubtful cases. Our results are yet too few to be tabulated.

We have already had an interesting case in which this method was apparently helpful. A Russian wolfhound with typical symptoms of dumb rabies was sent in for diagnosis. The brain showed many small fixed virus-like forms, which were considered suspicious. Guinea-pigs were inoculated from brains and glands. Treatment was begun in a small child whose scratched hand had come in contact with the saliva. After twelve days, as no symptoms were observed in the guinea pigs, the treatment was discontinued. The pigs from the brain came down six and one-half weeks after the inoculation, while those from the glands are still alive ten weeks later. It was decided not to give more treatment to the child for this reason.

The question as to whether the sputum may be virulent and

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the glands not, is an interesting one. It has been stated that the secretions from the mucous membranes of the mouth and nasopharynx may also be virulent. If this were so, it would, of course, throw out negative results from gland inoculations. We are attempting also to solve this question.

The *localization* of the Negri bodies is another important point in making diagnosis. We have found well-developed bodies distinctly localized in different parts of the brain in several instances. In one horse there were small widely-scattered areas of well-structured forms throughout the cerebellum, while tiny, indefinite forms were scattered through the rest of the brain examined.

In two human brains well developed forms were found in the corpus striatum and not in the rest of the brain. In several dogs the localization has also been marked.

The technic of the best method to follow in the examination of a suspected case of rabies is as follows:

(1) The whole brain, and when wished, the Gasserian ganglion, the spinal cord and its ganglia are removed under sterile precautions.

(2) The salivary glands are removed under sterile precautions.

(3) Small sections are cut from the various parts desired, especially from Ammon's horn, cerebellum, and motor area of cortex, and are fixed in Zenker and embedded in paraffin, according to the method given in previous article.

(4) The smears are made by pressing between a glass slide and a cover glass a small, thin section of the gray matter from (a) the cerebral cortex, (b) Ammon's horn, or (c) the cerebellum; the material is spread along the slide by moving the cover glass down with the finger.

When partly or completely air-dried, the smears are fixed for about ten seconds in neutralized* methyl alcohol, to which one-tenth per cent. of picric acid has been added. The excess of the fixative is removed by blotting with fine filter paper.

The fixed smears are stained in the following solution:

Saturated alcoholic solution of fuchsin	0.3 part
Saturated alcoholic solution of methylene blue	2.0 parts
Distilled water	30.0 parts

*The wood alcohol is neutralized by adding sodium carbonate (Na_2CO_3), about .25 grms. to 500 c.c. of the alcohol.

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This solution, which is a modification of the one proposed by Van Gieson for staining the Negri bodies in smears, changes rather quickly at room temperature, but kept in the ice-box it gives good results for an indefinite time.

The stain is poured on the smear and held over the flame until it steams. The smear is then washed in tap water and blotted with fine filter paper.

With this stain the Negri bodies appear a magenta, the nerve cells blue, and the red blood cells yellow or salmon color.

(5) If nothing is found in smear from the parts mentioned, smears are made from various other parts of the brain. If still nothing is found, an emulsion is made of good-sized pieces from the different parts of the brain and intracerebral inoculations are made into three guinea pigs, about one-fourth c.c. of the emulsion is inoculated. An emulsion is also made of the different parts of the brain in glycerine for later inoculations, if for any reason the first should fail. Sterilized, neutral glycerine is used. These emulsions remain active in the ice-box for over three months.

If one has a freezing ice-box, the whole brain may be frozen where it will remain in a perfect state of preservation and fully virulent for over three months.

Contaminated, doubtful material is made into a weaker fresh emulsion in order to lessen the number of bacteria. The glycerinated emulsion made from part of the same material is inoculated after two weeks, unless positive results have been gotten from the weak solution.

(6) One of the three guinea pigs is killed on the eighth day after inoculation, when, if the material inoculated was rabies the animal may show definite Negri bodies in the brain at the end of that time. Of course negative results mean nothing. The other animals are kept under observation, if they do not develop rabies, for from four to six months.

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PRELIMINARY REPORT AND OUTLINE OF PROPOSED WORK OF SELECT COMMITTEE ON THE MARSH CASE.

BY FLORENCE D. POTTER, A MEMBER AND SECRETARY OF THE SELECT COMMITTEE.*

On May 20th, 1908, Mr. William H. Marsh died at his home in Brooklyn after a three days' illness with what was purported to be hydrophobia.

Great publicity was given to this case in the newspapers and much interest and discussion has arisen in regard to various facts and conditions in connection therewith. The facts relating to Mr. Marsh's death, as nearly as they can be ascertained, are, briefly stated, as follows:

About six weeks previous to his death, Mr. Marsh had occasion to bind up a wound on the side of a dog which he had befriended and which licked his hand in gratefulness. It does not appear that the dog had been bitten by any other dog. After binding the wound, Mr. Marsh carefully washed his hands. The dog was then tied up and nothing more thought of the incident.

A few days later, the stenographer in Mr. Marsh's office complained that the dog had jumped at her when she went near where it was tied, and Mr. Marsh then had the dog killed. It does not appear that the dog ever showed the slightest signs of rabies, nor have any tests as to his condition even been made.

About six weeks later, May the 16th, Mr. Marsh seems to have grown exceedingly nervous over the incident and to have given the matter considerable thought, reading up the symptoms of hydrophobia in a medical book to refresh his memory. It appears also that Mr. Marsh had at one time studied medicine, and hence may be presumed to have had some knowledge of the nature of the disease. On this day his throat began twitching and he stated that he felt an aversion for water.

He at once consulted his physician, Dr. Cullinan, who diagnosed his case as one of hydrophobia and advised his consulting the experts at the Pasteur Institute in New York. This he did

* Submitted at the June meeting of the Medico-Legal Society, June, 1908, at the Waldorf-Astoria.

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on Monday morning, and the experts at the Institute pronounced it an advanced case of hydrophobia, for which they could do nothing, and told him that he could not live more than three days at the most.

After fully sensing this verdict of the physicians, Mr. Marsh returned to his home and made all preparations to die, attending to his business all the remainder of the day, and only taking to his bed in the late afternoon or evening. It was stated by a member of his family that up to that time no convulsions had been felt, but that in fear of the expected suffering, Mr. Marsh had secured from his physician the promise that he would put him in such a state of unconsciousness that he would not realize his sufferings as the disease advanced until death intervened. In accordance with this request drugs were administered.

The news of Mr. Marsh's condition, together with a pronouncement of the doctors that he would die at an appointed time, appeared on Wednesday morning in the newspapers. A gentleman who knew Mr. Marsh by business reputation, feeling that here was a strong man in fine physical condition apparently yielding to fear of a dread disease without an endeavor to fight for his life, hope of which had been so ruthlessly taken from him by the verdict of the doctors, determined to call upon him and see if something could not be done to quiet his fears and call his courage and determination back into control.

Upon his arrival at the house about eleven o'clock in the morning of Wednesday, he was told by the son-in-law of the family that it would be impossible to appeal to Mr. Marsh's consciousness, as he was then and had been for about thirty-six hours in a totally unconscious state from the administration of drugs which had been given him at his request to keep him unconscious until death occurred. The son-in-law stated that some twelve hours after the drugs were first administered, Mr. Marsh had regained consciousness and had said that he believed "he could sweat this thing out," but that the drugs had immediately overpowered him and he had lapsed into unconsciousness from which the doctor had taken care he should not again recover until death occurred.

The gentleman to whom these statements were made represents no so-called "healing cult," being himself a member of a profession which deals with physical science absolutely and to which Mr. Marsh's work was allied, but he believed that the mind of a man is given to him to use at all times, and not to have it

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paralyzed, either by fear or drugs, in the time of his need of mental and moral force. This gentleman will, therefore, appear before our Committee at the proper time and recount his experience in detail.

On the afternoon of that same day, Wednesday, May 20th, Mr. Marsh died.

Mr. Marsh was never bitten by any dog, nor does it appear that the dog which licked his hand, and which he afterwards washed, had rabies or had been itself bitten by any other dog. Others who came in contact with the same dog at the same time have not developed rabies or any symptoms thereof. The doctor's account for his infection only by averring that Mr. Marsh must have inoculated himself by scratching a sore on his leg, as there were no abrasions or sores upon the hand which the dog licked and which he had afterwards carefully washed.

In view of all these conditions, no source of inoculation being evident, the case presents some of the strangest points ever met with in a case of hydrophobia, and is therefore worthy of careful study and investigation, and an autopsy was held upon the body of Mr. Marsh by order of Coroner Henry J. Brewer, M.D. While parts of the brain and the spinal cord were retained for examination and experimentation to ascertain the existence of rabies, there appears to have been no testimony taken, or examination made, to ascertain the presence of poisons in the stomach. Upon a report made by Dr. Van Giesen of the New York Health Department, based wholly upon a demonstration of the Negri bodies, and not upon any inoculation made by him to ascertain rabies, stating that evidences of rabies were present in the spinal cord, and which Dr. Van Gieson telephoned to the Coroner in Brooklyn, permit was granted for the burial of Mr. Marsh.

The subject was brought to the attention of the Society by a paper read before the Society reciting the leading facts in the case by a member and on a full discussion of the case the Society at its May meeting ordered the appointment of a Select Committee by the President, with full power to take the advice and opinion of eminent pathologists, chemists, psychologists and scientific experts.

The Chair appointed as such Committee: Dr. C. O. Sahler, of Kingston, Chairman; Ex-President Albert Bach, Judge William H. Francis, Floyd B. Wilson, Florence Dangerfield Potter, Secretary and the President ex-officio.

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President Bell learning that the funeral of Mr. Marsh had been announced, notified the District Attorney of Kings County that the Medico-Legal Society had, on a presentation of the leading facts of the case at its meeting on the evening of his death by a member of the Society, ordered the appointment of a Committee to investigate the case and asked the District Attorney to request the Coroner to hold an inquest and secure the ablest scientific advice on the case, which that official agreed to do and which was done by Coroner Brewer.

The Committee, after carefully considering the issues, feel that the questions presented are of such enormous consequence both to science and the public good, that it will require the entire summer for their investigations and that a final report cannot be made until the fall meeting. The Committee have been empowered by the President under authority of the Society at its last meeting to take the advice and opinion of the most eminent pathologists, psychologists, and scientific experts, not only among the members of the Medico-Legal Society, but in the whole professional world. It will therefore direct its investigation

First, to ascertain as particularly as possible the true facts in relation to the cause and circumstances of Mr. Marsh's death.

Second, to securing statements of all persons directly related to the case, including that of the attending physicians, the Health officials, the Coroner, and others.

Third, to ascertain as far as possible what took place at the autopsy; the nature of the experiments made by Dr. Van Giesen to ascertain the presence of rabies, whether by examination of the Nigri bodies only, or by inoculations made by him; testimony taken, if any, in regard to the presence of poisons in the stomach, and what tests were made to ascertain the presence of drugs in the system; quantities and what drugs were used to induce unconsciousness, and other matters relating to the physical conditions of the case.

Fourth, to investigate the effectiveness of the Pasteur and other treatments of the disease by inoculation, etc., and to take the testimony and reports of scientific men regarding rabies, and pseudo-rabies in man and beast, their nature, frequency, causes, etc.

Fifth, to search out and report upon other cases of like nature to the Marsh case, and to report upon the effect of such cases

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upon the public mind, the fear engendered, the precautions taken, etc.

Sixth, to a discussion of the effect upon a normal mind of notification by a person believed to have actual knowledge, that a man has only three days to live; how it would affect a normal mind in the case of pseudo rabies; how it would affect minds in most cases; and what is the doctor's responsibility in such cases.

Seventh, to a discussion of the power of mind over matter in this and other cases; the power of fear in inducing death and reducing the power to resist disease; the psychological bearing of the pronouncement of a physician that death will be the end, and its effect upon the patient's mind; and the responsibility of the physician for discarding or ignoring the power of auto-suggestion, hypnotism beneficially applied, metaphysics, and general cheer and confidence, when he has become convinced that medicines will not reach the case.

Eighth, the responsibility of the medical profession to investigate and lead in all matters of investigation along the line of metaphysical treatment, and to include the same in their curriculum and treatment as well as medical and surgical science.

Ninth. How far has a medical man or a conference or consultation of medical men, the right at the request of a dying man where death is imminent, and even believed by the physicians to be certain and near, to administer drugs or opiates, to produce unconsciousness, and continue it until death intervenes, for the purpose of avoiding the sufferings and agonies, believed to follow in a case of death by hydrophobia: and

Tenth. Did the belief by Marsh, of the statement of the Director of the Pacteur Institute, and his request of the attending physician, strengthened by the opinion, advice and concurrence of the medical and other scientific consultants justify the attending physician in inducing unconsciousness by drugs and its continuance, until death intervened, for the purpose of saving the patient from the agonies he believed he would otherwise have suffered, in thus terminating the life to avoid the terrible convulsions attendant on a case of rabies?

Respectfully submitted in behalf of the Committee,

C. O. SAHLER, M.D., Chairman,
FLORENCE D. POTTER, Secretary.

June 20, 1908.

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THE SUPREME COURT, STATE OF OKLAHOMA.

BY HON. R. L. WILLIAMS,

Chief Justice of that Court, Guthrie, Oklahoma.

The Supreme Court of the State of Oklahoma consists of five justices, whose jurisdiction is co-extensive with the State, and extends to all civil cases at law and equity, and to all criminal cases in questions involving the construction of the constitution of the State or of the United States, or any act of Congress. Its original jurisdiction extends to a general superintending control over all inferior courts, and all commissions and boards created by law. It has power to issue writs of habeas corpus, mandamus, quo warranto, certeriorari and prohibition, and such other remedial writs as may be provided by law, and to hear and determine the same. It may exercise such other and further jurisdiction as may be conferred on it by law. Each of the justices has power to issue writs of habeas corpus to any part of the State, and to make such writs returnable before himself, or before the Supreme Court, or before any district court, or judge thereof in the State. (Const., art. 7, sec. 2, Bunn's Ed. sec, 170; Session Laws, Okla., 1907-1908, pages 291, 292, 293).

The justices of the Supreme Court are nominated from districts, but are elected from the State at large. A majority of the justices constitute a quorum and the concurrence of a majority of said court is necessary to decide any question. The term of such justices is six years. The Chief Justice is elected by the members of the court, and he serves for the period of two years. The present members of the court were elected on the 17th day of September, A. D., 1907, at the same time the constitution was submitted to the people of the proposed State for ratification or rejection, and are as follows:

John B. Turner, Vinita, Oklahoma; Matthew J. Kane, Kingfisher, Oklahoma; Jesse J. Dunn, Alva, Oklahoma; Samuel W. Hayes, Chickasha, Oklahoma, and Robert L. Williams, Durant, Oklahoma.

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The State having been admitted into the Union by proclamation of the President of the United States on the 16th day of November, A. D., 1907, the members of the court immediately qualified by taking the oath of office prescribed by law, and organized by electing Robert L. Williams Chief Justice of said court. Under the provisions of the constitution the terms of office were so arranged that not more than two vacancies should ever occur in the court by operation of law at the same time. The members cast lots as to their first terms of office. Justice Hayes and Chief Justice Williams drew the short term, which expires on the day preceding the second Monday in January, 1909. Justices Dunn and Kane drew the terms expiring on the day preceding the second Monday in January, A. D., 1911, and Justice Turner the term expiring on the day preceding the second Monday in January, A. D., 1913. Chief Justice Williams and Justice Hayes were nominated without opposition to succeed themselves, the former having no opposition from any political party in either the primary or general election. The salary of the justices of the Supreme Court is $4,000 per annum.

The Court of Criminal Appeals of the State, which consists of three members, has exclusive appellate jurisdiction in all criminal cases appealed from the county and district courts, except in any cases appealed thereto in which the construction of the constitution of the State or of the United States, or of any act of Congress, is brought in question. Thereupon it is the duty of said court to certify to the Supreme Court of the State such question or questions for final determination. The said court, and the judges thereof, have the power to issue writs of habeas corpus, and under such regulations as the law provides, to issue such writs as may be necessary to enforce its own jurisdiction. (Session Laws, Okla., 1907-1908, pages 291, 292, 293). The Court of Criminal Appeals was created by the legislature for the purpose of meeting an emergency. When the State was admitted into the Union, there were transferred from the United States Court of Appeals of the Indian Territory and the Supreme Court of the Territory of Oklahoma, to the State Supreme Court four hundred and thirty-three cases for determination, a great number of which were criminal cases. And with a view of expediting business and enabling the Supreme Court to catch up with the docket, the Court of Criminal Appeals was created.

It is provided that the judges of the Court of Criminal Ap-

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peals shall hold office until the first day of January, 1911, at which time the said court shall terminate, unless continued by the legislature. The salary of the judges of the Court of Criminal Appeals is $3,500 per annum. The Honorable Henry M. Furman, of Ada, Oklahoma, who was born in South Carolina; Thomas H. Doyle, of Perry, Oklahoma, formerly of Indiana, and H. G. Baker, of Muskogee, Oklahoma, from Ohio, were appointed by the Governor as members of that court, and having taken the oath prescribed by law, met and organized on the 16th day of September, A. D., 1908, by electing the Honorable Henry M. Furman as presiding judge.

NOTE: The Supreme Court Justices, to wit: Chief Justice Williams, was born in Alabama; Justice Dunn in Illinois; Justice Kane in New York; Justice Turner in Tennessee, and Justice Hayes in Arkansas.

The office of clerk of the Supreme Court is an elective one. The Honorable Wm. H. L. Campbell, of Ada, Oklahoma, a native of North Carolina, was elected to that office at the same time the constitution was submitted for ratification or rejection, to wit, on September 17th, A. D., 1907. The Honorable W. M. Bonner, of Ardmore, Oklahoma, who is an Alabamian by birth, and also about a one thirty-second Choctaw Indian, is deputy clerk of said court. The clerk of the Supreme Court is ex-officio clerk of the Court of Criminal Appeals.

The office of Marshal of the Supreme Court is appointed by the court. The Honorable Wm. T. Field, of El Reno, Oklahoma, who is a native of Illinois, and who was a member of the Constitutional convention of Montana, was appointsd to this office at the time of the organization of the court.

The Supreme Court has remained almost continuously in session since the date of its organization. So many intricate questions for judicial determination arising under the peculiar conditions under which this State came into the Union, being the only State which was ever admitted covering territory embracing an organized territorial form of government, to wit, Oklahoma Territory, and also a semi-territorial form of government, to wit, the Indian Territory, which embraced the Five Civilized Tribes, which formerly existed as five separate governments with constitutions, under which laws property rights, by descent and distribution and devise, vested.

(To be continued.)

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SUPREME COURT OF THE STATE OF OKLAHOMA.

BIOGRAPHIES OF THE JUDGES.

HON. ROBERT L. WILLIAMS, A.M., CHIEF JUSTICE, 1907—STILL SERVING.

Robert L. Williams was born on a farm near Brundige, Pike County, Alabama, on the 20th day of December, A. D., 1868. His great grandfather on his paternal side, Jonathan Williams, was born about the year 1762 in Connecticut, his father having migrated to North America from Wales about the middle part of the century. Young Jonathan Williams while a boy, according to the Puritan custom, became an apprentice at a mechanical trade; but tiring of the Puritanical custom, about the time he reached his majority, he migrated to North Carolina and settled near Wilmington, where he married a Miss Cowart, who was of English stock.

His paternal grandfather was the Reverend Simeon Williams, who was born in North Carolina near Wilmington, about the year 1796, and about the year 1824, with his father, the said Jonathan Williams, and his brother, the Reverend Elisha Williams, and two sisters with their husbands, Mrs. Richard Bowden and Mrs. Frank Leddon, settled on Bear Creek, in Pike County, Alabama, the settlement being known as "Williams' Settlement," and in which is located a Methodist church, which is known even at this time as "Williams' Church."

His paternal grandmother was Miss Eliza Adams. The Williamses and Cowarts were from the earliest days of party alignment, Democrats. The Adamses were Whigs.

His father's name is Jonathan Williams, who was named for his grandfather, and resides at the present time in Pike County, Alabama, within three miles of where he was born. His mother was Miss Sarah Julia Paul. Her father was Robert Paul, who died in the Confederate service at Richmond, Virginia, being an officer in the 15th Alabama Regiment.

His great grandfather on the paternal side was Moses Paul, a hardshell Baptist preacher. His maternal grandmother was a Miss Orra Farrar Stallings. The Pauls, of Irish descent, and

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the Stallings, English, settling in South Carolina and Georgia, at an early day, were Democrats.

When a boy he had the advantages of a country and village school up to the age of sixteen years. At this time he went to work on his own account, and made his way through college, being educated at Southern University, Greensboro, Alabama, receiving the degree of Master of Arts from said institution.

He read law in the office of Judge William S. Thorington, Montgomery, Alabama, now Dean of the Law Department of the University of Alabama, and was admitted to practice, on examination, before the Supreme Court of that State, on September 20th, 1891, and located to practice in the profession of law at Troy, Pike County, Alabama. After about two years, he removed to Wharton, Texas.

On the 10th day of July, A. D., 1896, removing from Texas, he settled in Atoka, then Indian Territory, Choctaw Nation. After about six months thereafter, he removed to Durant, in the Choctaw Nation, and has resided there ever since. He was the first attorney for the town of Durant, elected without being an applicant for the position; a member of the Constitutional Convention from the 109th (Durant) district; and was elected one of the first Justices of the Supreme Court of the State of Oklahoma; and on the organization of that court was selected the first Chief Justice of the Supreme Court of that State.

In the Constitutional Convention he was a member of the committees on Public Service Corporations (chairman), Judiciary, Revenue and Taxation, Legislative Department, Primary Elections, and Legal Committee (chairman). The Legal committee was created by the Convention on account of the injunction suits brought to prevent the constitution from being submitted to the people for ratification or rejection. He was the author of the public service corporation provisions incorporated in article 9 of the constitution of the State, including the two-cent fare, the fellow servant provision, and the provision to the effect that every license issued or charter granted to a mining or public service corporation, foreign or domestic, should contain a stipulation that such corporation will submit any difference it may have with employees in reference to labor, to arbitration, as shall be provided by law,—the first time such provision has ever been incorporated in a statute or in any constitution.

In the year 1904, at the National Democratic Convention in St.

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Louis, he was selected a member of the Democratic National Committee from the Indian Territory. From 1900 to 1904, he was a member of the Democratic Central Committee of the Indian Territory.

Prior to his election to the bench, he was extensively engaged in the practice of the law at Durant, where he was successful. He takes the position of Chief Justice of the State before he reached the age of forty years, and in the prime of his life, and is now at the threshold of a judicial career of great promise and in every way qualified for the exalted position he now holds.

SUPREME COURT OF OKLAHOMA ASSOCIATE JUSTICES.

HON. JESSE J. DUNN.

ASSOCIATE JUSTICE, 1907—STILL SERVING.

Hon. Jesse J. Dunn, of Alva, Oklahoma, was born in Will County, State of Illinois, on October 2nd, A. D., 1867. When three years old he was taken by his parents to Noxuby County, Mississippi, where they resided for six years when with his father's family, he moved to El Paso, in Woodford County, Illinois, where they resided until 1885, then removing to Garden City, Finney County, Kansas, where he was a clerk in his father's store, and worked on a farm until he entered the University of Kansas, graduating in the Law Department thereof in June, 1893. On September 16th, 1893, when the Cherokee Strip was opened for settlement, he located at Alva, in Oklahoma Territory, to practice his chosen profession. At the November election in 1896, he was elected as prosecuting attorney for Woods County, and at the close of his term, was re-elected, serving two terms. In 1903, he was elected as chairman of the Democratic Central Committee, and managed the campaign of Hon. Frank Mathews, Democratic nominee for delegate to Congress. In 1906, he was elected as chairman of the joint Democratic campaign committee, for the Territories of Oklahoma and Indian, for the election of delegates to the Constitutional Convention to form a constitution for the proposed State of Oklahoma,

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which resulted in the election of ninety-nine Democrats out of one hundred and twelve delegates to the Constitutional Convention.

At the election on the 17th day of September, A. D. 1907, at which the constitution was submitted to the people for ratification or rejectment, he was elected as one of the Justices of the Supreme Court for the new State. He took his seat on that bench at the organization of that court, and brings to his work an extended experience in practice and a two years' service as attorney for the people. He is like the Chief Justice, a young man full of energy and abundantly equipped for the duties of his judicial experience.

HON. SAMUEL W. HAYES,

ASSOCIATE JUSTICE, 1907—STILL SERVING.

Was born at Huntsville, Arkansas, September 17, 1875; moved with parents to Texas in 1877. He was educated in the public schools of Texas and at the University of Virginia; married Miss Ida Poole at Ryan, Indian Territory, October 8, 1899; was elected member of the Oklahoma Constitutional Convention, and elected member of the Supreme Court of Oklahoma, September 17, 1907, and took his seat on the organization of that court. Politics, Democrat. He is now only thirty-three years of age, a young man of parts and of promise and thoroughly identified with the interests of the people of the State.

(To be continued.)

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BIOGRAPHIES OF THE JUDICIARY OF THE INDIAN TERRITORY AND OF OKLAHOMA SUPREME COURT, TERRITORIAL AND STATE.

GENERAL JAMES M. SHACKLEFORD.

BY THE HON. PRESTON G. WEST, OF MUSKOGEE, OKLA.

Oklahoma, the newest State in the Union, is yet not wholly without a past, and a past to which the new commonwealth is linked, in aims, temper, and ideals, by some splendid men who "by reasons of strength" have been spared to witness and take part in the final act of her struggle for civic emancipation. Such a one is General James M. Shackleford, of Muskogee. Every day upon the busy streets of that enterprising city may be seen the commanding figure of this white haired veteran, still active in body and mind, though now in his eighty-second year.

It is now almost twenty years since President Harrison appointed General Shackleford the first Federal Judge of the then Indian Territory, embracing the country now comprising the State of Oklahoma. In April, 1889, he held his first term of Court at Muskogee—the first term of any court (other than Indian Tribal Courts) ever held within the borders of the State. He has seen many changes wrought in the intervening score of years. To Oklahoma's citizens—more particularly her lawyers—it is a matter of great pride that the very father of her judiciary should have been a man of such intellectual strength, personal worth, lofty ideals and Christian character.

Judge Shackleford was born in Lincoln County, Ky., July 7th, 1827. His father and mother were Edmund and Susan Shackleford, and from them he inherited not only a robust physical constitution, but intellectual and moral qualities of the highest order as well. He received his academic education at Springfield, Kentucky, and when the war with Mexico broke out he enlisted and served as a lieutenant of the Fourth Kentucky; the corp to which he was assigned following in the wake of General Scott's series of brilliant victories from Vera Cruz to Mexico City.

After the Mexican War he read law and was called to the bar in 1853 and entered eagerly upon his professional life, only to be

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called once more to the field of more stirring action. The Civil War having broken over the country, he espoused the Union cause, and was made colonel of the Twenty-fifth Kentucky Regiment. In March, 1860, he was made a Brigadier-General, and in July of that same year had the distinguished honor of capturing the brilliant Confederate raider, General John H. Morgan and his entire command. General Shackleford still has the magnificent sword presented by his fellow citizens as a memento of his achievement. During the last years of the war he was in command of a cavalry corp of sixteen regiments in the army of the Ohio.

When peace had again come to the country General Shackleford took up once more his interrupted professional life, settled at Evansville, Ind., and engaged in an extensive practice in State and federal courts and the Supreme Court of the United States. He is a republican in politics and has at all times taken a keen and active interest in all public affairs. He was twice a presidential elector in Indiana (1880 and 1888), and when on March 1st, 1889, an Act of Congress was approved creating a federal court in Indian Territory, President Harrison, shortly after his inauguration, tendered him the position of its first judge. The offer was accepted and the General, whose arm had wielded the sword with vigor and success, came to a frontier settlement to administer justice. He has ever since made Muskogee his home. In 1892, upon Mr. Cleveland's election, a democrat was appointed to succeed him in the judgeship—the term of which was only four years—and he again entered the law practice and continued in active service for upwards of ten years. He was counsel for the Choctaw Nation in its litigation to establish a final and definite citizenship roll.

No higher tribute can be paid any man than the testimony borne by the fact that, amidst all the stirring scenes of which he has been an active participant, no one—not even in the throes of politics—has ever assailed the incorruptible rectitude of this man's character. And his nearest neighbors are those who revere him most—he is most beloved by those who know him best.

A brave and capable soldier, an able jurist, a statesman of no mean attainments, he is, above all, the tenderest hearted and most chivalric of men—a veritable gentleman of the old school. Nor should it be forgotten that in all the stirring years that have made up his long life, in spite of the materialistic and agnostic tenden-

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cies of recent years, he has preserved unshaken his faith in him who was offered for mankind upon the hill of Calvary. His daily walk and conversation proclaim, without ostentation but with no uncertain note, *crux mihi anchora.*

(To be continued.)

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SUPREME COURT NOTES.

The following letter sent the Hon. Charles N. Potter, Chief Justice of the Supreme Court of Wyoming, is a duplicate of one sent to the Chief Justices of the States of Iowa, Louisiana, Washington, Montana, Nevada, Nebraska, Utah, North and South Dakota, and the new State of Oklahoma, by the Editor of this Journal. It is purposed to proceed with the historical statements of these States and others before New York is completed and we would welcome similar data from the other States from the Bench or Bar addressed to Clark Bell, Esq., 39 Broadway, New York City:

New York, August 28, 1908.

Honored Sir:

I mail you volume XXV of the MEDICO-LEGAL JOURNAL. After you have examined it, please place it in the Library of the Supreme Court of your State as a gift from me with my compliments.

I am about to publish the judicial history of North and South Dakota and of Oklahoma and other States, in which I should feel obliged if you would give me some assistance, which I have hitherto received from many of the Chief Justices of States of the Union, in obtaining portraits and sketches of the Supreme Court Judges now sitting on that bench and of the Ex-Judges of that body, who have been members of that court since its organization.

The historical sketch of the Supreme Court in many of the States has been written by the Chief Justices of the Supreme Court of the State and in nearly all most valuable data given to enable me to make it complete and accurate.

What I desire is first, a list of the names of all the members of that bench since the organization of your State; the data of their service and a copy of the Constitution of the State.

May I ask you, Sir, to send me in addition, your own portrait in robes, if your court sits in robes, but if not, a good photograph and a brief sketch of your life and judicial career, or the data from which I could prepare one myself.

If you know a young member of the bar of your State who

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would take a pride in writing these sketches and you designate him to do so, I would follow a practice which has been done in some few of the States, where the Chief Justice did not wish to be announced as the author of the sketch.

I take great pleasure in enclosing to you three copies of the group of our New York Court of Appeals, one of which I intend as a contribution to the Court to be framed and hung in its chambers and the other as a gift to the State Library, to be placed in that Library and one as a personal gift to yourself.

If you will communicate with your associates of the Supreme Court Bench and ask them to forward to me their portrait and a brief sketch of their judicial career, I should be greatly obliged, as it would assist me very much in the speedy preparation of the historical sketch which I should be glad to have it appear in my September number of the Journal, if I receive it in time.

I remain, Sir, with high regard

Ever faithfully yours,

CLARK BELL.

To Hon. Charles N. Potter, Presiding Judge Supreme Court of Wyoming, Cheyenne, Wyo.

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PSYCHOLOGICAL.

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U. O. B. Wingate, M.D., Milwaukee, Wis.
Dr. Edward S. McKee, Cincinnati, Ohio.

as the organ of the Psychological Section.

The Psychological Section of the Medico-Legal Society has been organized, to which any member, Active, Corresponding or Honorary, is eligible on payment of an annual enrollment fee or dues of $1.50.

Any student of Psychological Science is eligible to unite with the Section without joining the Medico-Legal Society on an annual subscription of $1.50, payable in advance and receive the MEDICO-LEGAL JOURNAL free. The officers for 1907 are as follows:

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NOTES ON TUBERCULOSIS.

THE PATHOLOGY AND BACTERIOLOGY OF TUBERCULOSIS.

Prof. OTTO VON SCHROEN of the Royal University of Naples, contributed a paper to the American International Congress on Tuberculosis, announced to be held at Chicago, June 1, 2 and 3, 1908, which Congress was adjourned over to 1909, by the unanimous action of the Board of Officers, of which Prof. von Schroen is an honorary president. He has since furnished a translation into our language, which appears in this Journal, by vote of the officers of the American International Congress on Tuberculosis, with the approval of the author. The paper was offered to the Washington Congress, but the offer was too late to be within the regulation adopted. It was read before the Medico-Legal Society and ordered published in this Journal.

PROF. OTTO V. SCHROEN,
CORSO VITT. EM. 440,
NAPOLI.

NAPLES, 26/8/1908.

DEAR SIR:—

I hope you are in possession of my communication on the last progress of my work on the difference between tuberculosis and phthisis of the 16/5/1908, as well as of two colored drawings on the endogenous prolific activity and the direct caseous degeneration of the phthisiogenous microbe in the cavity-wall of human lung.

This communication was in reality intended for the American International Congress on Tuberculosis, which was to take place at New York on the first of June. Nevertheless, I should like the translation of it, which I have in the meantime sent you, to be read at the great International Congress, which is to take place in the United States of America at the end of September or the beginning of October, as it shows clearly that a final valid decision on many so-called questions on tuberculosis and phthisis will only be possible after the knowledge of the bacteriologic difference between tuberculosis and phthisis.

You will also have received my letter of the 29/7. I am sorry not to be able of leaving my laboratory because of some work on phthisis, which I am just pursuing. But I invite all those who have at heart the profound knowledge of tuberculosis and phthisis to come to Naples, where they will find a rich stock in preparations, cultures and experiments of the above-mentioned diseases, material which cannot be transported for its largeness.

I will send a few preparations of the phthisiogenous microbe in human organs to one of my scholars in North America, who will show them after having been in communication with you about it.

Believe me sincerely yours,

PROF. V. SCHROEN.

Dr. Clark Bell, President Medico-Legal Society.

I have given an assent in a qualified sense to the official invita-

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tion from Rome to be a member of the Italian Committee for the International Congress on Tuberculosis in North America.

Prof. Von Schroen encloses the following letter in Italian and English translated:

ROME, 8, July, 1908.

HONORABLE COLLEAGUE:—

Prof. Baccelli, together with the Professors Marchiafora and Maragliano, has received the invitation of naming an Italian Committee of the International Congress of Tuberculosis, which will take place October next.

The above-mentioned Professors have indicated your illustrious worship as a member of this Committee, and have charged me to give you the participation of it, hoping that you will accept.

Fulfilling this agreeable duty I am, of your worship,

Most devoted,

ASCOLI.

To Signor, Prof. Otto von Schroen.

IMMORTALITY.

BY SIR OLIVER LODGE.

Let us consider what is meant by immortality. Is there anything that is not subject to death and annihilation? Can we predicate immortality about anything? Everything is subject to change, but are all things subject to death? Without change there could be no activity, and the universe would be stagnant; but without death it is not so clear that its progress would be obstructed; unless death be only a sort of change.

But is it not a sort of change? Consider some examples: When a piece of coal is burnt and brought to an apparent end, the particles of long-fossilized wood are not destroyed; they enter into the atmosphere as gaseous constituents, and the long-locked-up solar energy is released from its potential form and appears once more as light and heat. The burning of the coal is a kind of resurrection; and yet it is a kind of death, too, and to the superficial eye nothing is left but ashes.

Consider next the destruction of a tree or of an animal. Here again the particles remain as many as before, it is only their arrangement that is altered; the matter is conserved, but has lost its shape; the energy is constant in quantity but has changed its form. What has disappeared? The thing that has disappeared

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is the life—the life which appeared to be in the tree or the animal the life which had composed or constructed it by aid of sunshine and atmosphere, and was manifested by it. Its incarnate form has now gone—no more will that life be displayed amidst its old surroundings, it has disappeared from our ken; apparently it has disappeared from the planet. Has it gone out of existence altogether?

If it were really generated de novo, created out of nothing, at the birth of the animal or of the tree, we should be entitled to assume that at death it may have returned to the nonentity whence it came.

But why nonentity? What do we know of nonentity? Is it a reasonable or conveivable idea? Things when they vanish are only hidden. And so conversely; it is readily intelligible that some existence, some bodily presentation, can be evoked out of a hidden or imperceptible or latent or potential existence, and be made actual and perceptible and what we call real. Instances of that sort are constantly occurring. It occurs when a composer produces a piece of music, it occurs when an artisan constructs a piece of furniture, it occurs when a spider spins a web, and when the atmosphere deposits dew. But what example can we think of where existence is created out of nonentity, where nothing turns into something? We can think of plenty of examples of change, or organization, of something apparently complex and highly developed rising out of a germ apparently simple; but there must always be at least a seed, or nothing will arise; nothing can come out of nothing: something must always have its origin in something.

A radium atom is an element possessing in itself the seeds of its own destruction. Every now and then it explodes and fires off a portion of itself. This can occur several times in succession, and finally it seems to become inert and to cease to be radium or anything like it; it is thought by some to have become lead, while the particles thrown off have become helium, or occasionally neon, or sometimes argon. Let us suppose that. We cannot stop there, we are bound to go on and to ask what was the origin of the radium itself. If it explode itself to pieces in the course of a few thousand years, why does any radium still exist? How is it being born? Does it spring into existence out of nothing, or has it some parent? And if it has a parent, what was the origin of that parent?

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Never in physical science do we surmise for a moment that something suddenly springs into being without it can be accounted for by changes of non-existence. All that we perceive by aggregation, by assemblage and dispersion. Of material aggregates we can trace the history, as we can trace the history of continents and islands, of suns and planets and stars; we can say, or try to say, where they arose and what they will become; but never do we state that they will vanish into nothingness, nor do we ever conjecture that they arose from nothing.

I want to make the distinct assertion that no really existing thing perishes, but only changes its form.

So, then, what about life? Can that be a nonentity which has built up particles of carbon and oxygen into the form of an oak or an eagle or a man? Is it something which is really nothing; and soon shall it be manifestly the nothing that an ignorant and purblind creature may suppose it to be?

Not so; nor is it so with intellect and consciousness and will, nor with memory and love and adoration, nor all the manifold activities which at present strangely interact with matter and appeal to our bodily senses and terrestrial knowledge; they are not nothing nor shall they ever vanish into nothingness or cease to be. They did not arise with us; they never did spring into being; they are as eternal as the Godhead itself, and in the eternal Being they shall endure forever.

TOLSTOY ON DEATH.

The *Literary Digest* quotes Tolstoy on Death from two of the leading Paris journals, *The Daily Mail* and the *Paris Matin.*

Tolstoy is one of those superb men who illustrate man's capacity for usefulness at what some regard as an advanced age.

He passed his 83d birthday this last summer. He bids fair to be as useful at 93 as now. His later mental efforts show no falling off in either mental activity or vigor. We quote from this best of our American Journals the selections from the foreign Journals:

Count Tolstoy, the Russian author, celebrates his eightieth birthday this summer, but expresses his preference for death. The Paris *Daily*

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Mail prints his reply to a friend who congratulated him recently on the approach of his birthday, which ran as follows: "It is another happiness that I await—Death." In a letter which is published in the Paris *Matin* he amplifies this saying and adds that all earthly life is a dream and that death is the true awakening. This letter runs as follows:

"All our life, from birth to death—is it not, with all its dreams, itself a dream? Does not our belief in its reality spring solely and entirely from our ignorance of any other life more real? Our earthly life is one of the dreams of another and more real life, and that other life is a dream of yet another life, and so on *ad infinitum*, even to the last life, the life of God.

"Death in youth is as when a man is awakened before he has slept full measure. Death in old age is as when a man wakes of his own accord after good sleep. Suicide is as a nightmare which a man banishes by remembering that he is asleep; he makes an effort, and he wakes.

"Deep sleep, without dreams, is comparable to semibestiality. It is the sleeper conscious of what goes on around him, and ready to awake at any moment, who has knowledge, though but vague, of the life whence he came and whither he shall return.

"Even in this present dream-life we feel that which the new life will perhaps make real to us. The earthly form in which the awakening of our knowledge of the true life finds us appears as a limitation to the free development of our spirit. The true life begins when that limitation is removed. This idea embodies all the knowledge of the truth which gives to man the consciousness of eternal life.

"I believe with all my soul in what I say. I feel. I know with certainty that in dying I shall be happy, and I shall enter a world more real."

SOCIALISM AND CHRISTIANITY.

Rev. Dr. R. L. Horton, of London. Briefly expressed, he says:

"It is possible to define Socialism in such a way that it is not only consistent, but identical, with the earthly mission of Christianity."

This is a condition he would name "Christian Socialism." Dr. Horton's views as stated thus:

Socialism as an economic theory and the Christian religion are thus seen to agree in certain aims, but in the method adopted to realize those aims, the writer goes on to say, "it can not be said that Christiantiy has even passed an opinion on the doctrine of State Socialism." Not only were Karl Marx and the early German Socialists "materialistic," taking no account of spiritual values, it is asserted, but it is true to-day that Socialism confines its view to this earthly life and to the material conditions of well being."

This subject arouses great interest, especially in England, when the *Christian Commonwealth*—which has been regarded as the organ of Dr. R. J. Campbell, who stands as the champion of Christian Socialism in England—in discussing this subject in that Journal Dr. Horton says:

"The term Socialism has . . . its scientific meaning. In that scientific sense it is a very definite economic theory with corresponding political proposals. It was made in the first instance by a very solid thinker in

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Germany—Karl Marx. The doctrine of Marx was that by the inevitable process of evolution the next step of human development will be that the material and means of production will be concentrated in the hands of the commonwealth for the good of all. The State will own the land and the capital, and it will therefore assume the control of the industries and as a necessary result will have the control of individual life, determining what men shall do and what their reward shall be. This definition of Socialism happened to be advocated by Karl Marx and a number of German Socialists who were in direct antagonism to religion, and particularly Christianity. That was really an accident. It might be, and in England at the present moment it actually is the case, that men believe in State Socialism and yet are Christians. Therefore it is important to point out that State Socialism has just as much as just as little to do with Christianity as any other great political or economic conception, such as liberalism or conservatism, free trade or tariff reform. State Socialism is a practical proposal based on a theory of economic development for realizing a social constitution which many Christians desire, and if Christians believe that this is the way of realizing the Kingdom of God they should feel that the Socialist method is approved by their Master. But observe this: No one is entitled to say that Christianity enjoins that method. And still less is any one entitled to say that those who do not believe in that method are to be unchristianized. To identify State Socialism with Christianity is not only a confusion of ideas, but it must have a disastrous effect. We are no more justified in identifying Christianity with the principles of Socialism than with the principles of the French Revolution."

"Socialism and Christianity ought to be better acquainted and agreed; there is no great difference between the principles at the root of both. Both long for a better order and better life of man. They might be better agreed if they saw that a reformed society can not be achieved unless by reformed men, and reformed men can not be truly reformed unless they work for a reformed society. If Christians were more socialist, Socialists would be more Christian."

Coming down to the first principles, Jesus Christ may be classed as a Socialist of the highest type.

No so-called leader of Socialistic thought of to-day could claim to be worthy to touch more than the hem of the garment of the Nazarene.

The "Christian Socialism" of Dr. Horton tends to bring the soul nearer each other, and Christ, when studied, carefully helps to lift the soul to a higher conception than the Socialist of to-day occupies.

NOTES ON LONGEVITY.

COMFORT FOR THE AGED.

The Outlook has said some good and wholesome words for those men and women whom it fancied might have been discouraged by the pessimism of a prematurely senile physician, who need not be named, more than by his own declaration made when

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he was fifty-four, that he had not done any original research work in the preceding ten years of his life and whose views have ceased to be regarded as of value by the world at large in its review of Mr. W. A. Newman Dorland in an article contributed to the April *Century Magazine.*

In commenting upon Mr. Dorland's masterly article *The Outlook* says, under the head of "Comfort for the Aged":

"The writer of the article, Mr. W. A. Newman Dorland, has taken the subject into the biographical and historical laboratory room, and has gone at his work with scientific thoroughness. This involved the investigation of the record of more than four hundred celebrated men. From the mass of information which he has collected, it appears that 'the age at which the man first began to manifest mental activity in the line or lines in which he subsequently became famous' was twenty-four. Musical composers appear to take the earliest start, for they begin on an average of about seventeen, while humorists and satirists do not embark on their work until about twenty-two. The golden age for the perfection of masterpieces appears for chemists and physicians at forty-one, for naturalists and jurists at fifty-eight; but a great many of the most important creative works have been done by men beyond sixty. Men now in maturity have not forgotten that the leaders of the age in which they grew up were nearly all venerable. Europe was for years in the hands of octogenarians, like Pope Leo XIII, Cavour, Bismarck, Disraeli, Gladstone, Gortschakoff. Tennyson and Browning lived to a great age and did notable work to the very end; while to-day, among the foremost figures in literature, Swinburne, Björnson, Tolstoy, Meredith, Mistral, are the special inspirers and leaders of young men. Ibsen was sixty-four when he wrote 'The Master Builder.' Dr. Weir Mitchell has written a new chapter in his own remarkable development and has gained a wide literary reputation since his sixty-fifth birthday. As a matter of fact, age seems to be necessary to round out a career by certain qualities of ripeness, repose, clearness of vision, and spiritual beauty which are distilled by the flight of time, and which no energy of youthful genius or ambition of immature energy can accomplish."

THE CRIMINAL INSANE.

The recent decision of Mr. Justice Morschauser, of the New York Supreme Court, in the case of Thaw, is full of interest in considering the public safety when it is deliberately proposed to set at large an insane criminal, who had been so declared by a court of competent jurisdiction.

In considering this subject in his decision he has enunciated the well settled law of this State.

He holds that the public safety is of paramount importance as a first proposition; and

Second, that the courts can only recognize the recovery of the insane criminal, when it is established beyond all question, that all danger of relapse is removed.

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The dicta of Judge Morshauser's decision is as follows:

"In construing this statute it should be borne in mind that the safety and welfare of the community are of more importance than the freedom of the individual. . . .

"Bearing in mind that the usual punishment for the act which led up to the detention of said Thaw is death or a long term of imprisonment, and that Thaw escaped the consequences of such act solely by reason of his existing mental condition, I do not deem it proper to allow Thaw his freedom, suffering as he is from some form of insanity, with the possible recurrence of an attack similar to that which the jury believed he was suffering from when he killed Stanford White.

"In view of the existing mental condition of said Thaw, the safety of the public is better insured by his remaining in cusotdy and under observance until such time as he has recovered or until it shall be reasonably certain that there is no danger of a recurring attack of the delusion, or whatever it may be."

Judge Morschauser is a young man and a new man on that bench, but he has given sound construction to the law of the case and is entitled to the thanks of the orderly and well-disposed citizen. It would have been a menace to the public's safety to have allowed Thaw to go at large, and a heavy blow to the best interests of the people.

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LONGEVITY—THE IMPORTANCE OF ITS STUDY.

BY CLARK BELL, ESQ., L.L.D., OF THE NEW YORK BAR.

The following letter has been and will be sent to some and is addressed to all who send, by the Editor of this Journal:

New York, August 3, 1908.

My dear Sir and Colleague:

I have the honor to send you under separate cover two numbers of the MEDICO-LEGAL JOURNAL calling your attention to the article on Longevity and to the interest aroused in our country to the munificent foundation created by Mrs. Russell Sage for the welfare of the aged, which has made a study of age and its relation to usefulness of profound interest to the race. The mind, its tranquillity and repose, is so much a necessity for the prolongation of life, that the attention of all, should be arrested and fixed upon its importance and value.

The superstition that men of seventy or eighty should prepare for death should be exposed and denounced. The usefulness of life to extreme old age should be studied and taught the race, based on the achievements in public life of men like Gladstone, Virchow, Bismarck, John Bigelow, President Nord Alexis of Hayti; Michael Angelo and of President Porfirio Diaz of Mexico; in Art like Titian; in letters and science like Dr. A. N. Bell, of Brooklyn; Humboldt; Herschell; R. Ogden Doremus; General Thomas T. Eckert; Senator George F. Edwards; General Dan Sickles, are also luminous examples, also Huntington, Wilson MacDonald, Luther R. Marsh, David Dudley Field, Judge Charles P. Daily, John Ordroneaux and Charles Donohue of our Bar, and in all departments of human endeavor.

To this end I ask you to contribute short essays, based on your own experience, on the theme of longevity, and the examples you have known or observed among the aged of your time, so that I can reproduce them in my Journal, and I shall ask the wiser men of other nations and countries.

Every man, as it has well been said, is entitled to his century of life, barring accidents, if he observes the plainly defined laws of life, and this brought clearly to the minds of our children, will change what has come to be in many minds a conviction that we should prepare early for death, and correct an error that has in-

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fluenced mankind not to attempt in its riper years the achievements that Lord Kelwin, Goldwin Smith and our splendid old men, of the last and present century have produced and developed.

An early reply will be appreciated and acknowledged.

Very faithfully yours,

CLARK BELL.

STUDIES IN LONGEVITY.

If we take up the New York *Herald,* for example, any day, the announcements of the death will throw a brilliant side light on the relation of old age to usefulness in the activities of life.

Take November 4, 1907, for an example:

In the death list there are 41 names; over 70, 10;

70 and over.		80 and over.		90 and over.	
Judge Abram H. Dailey	76	Sarah A. Crabb..	89	Mrs. Mary E. Parmelee	96
Louis H. Kragee.	74	Martin E. Green..	80		
Thomas M. Lahey	73	Jane Gray Walmly	82		
Aron Scheuerman.	72	George W. Tibbetts	82		
Anne Dickinson Smith	73	David N. Holly..	84		

Of these announcements 39 do not give the age—are under 70.

This Journal announces Prince Piero Strozzi, born October 20, 1855.

Mrs. Jane G. McLaughlin at 82, who for the last eighteen years had been matron of the Silarfield Mansion in Prospect Park, Brooklyn.

Judge Dailey was in active practice at the Bar, succumbed to pneumonia. The large percentage of death past 70 seems strange and remarkable. The age of Charles F. White, cited as the oldest member of Darcy Lodge, F. and A. M., is not given.

The analysis of the New York *Herald* of November 1, 1907, was, total announcements, 55; ages not given, 35; under 70, 10, and only Miss Patrick S. Brady, 83, Mrs. Lucia L. Ward, widow of Moses Ward, 84th year.

The *Herald* of November 5th gives 48 notices of death. Of these, 29 give no age. Under 70, 4; over 70 and under 80, 6; over 80, 7.

The New York *Herald* of March 5, 1908, announced the death of the following octogenarians:

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William Fox, at 424 8th street, Brooklyn, in his 87th year.

John H. Gottschius, at the residence of Irving Hopper, at Nyack, N. Y., aged 83 years, a veteran of the Civil War, residing at 160 Spring street, New York.

Anna E. Roche, widow of Thomas C. Roche, of 1442 Bushwick avenue, Brooklyn, 80 years of age.

William L. Sloat, in the Sloat Manor House, Stoatsburg, N. Y., aged 84.

Nathaniel T. Smith, Middletown, N. Y., aged 86; had been a member of the Middletown Court, I. O. of O. F., 62 years.

Hon. Charles Andrews, late judge of the Court of Appeals of New York, born May 27, 1827, writes me in response to my request; now in his 82d year. My father, George Andrews, born December 2, 1793, died in Syracuse, N. Y., May 27, 1873, aged 80 years. His father died in 1845, aged 83 years. His mother died in 1857, aged 86 years. My paternal great-grandfather died aged 84 years. My paternal great-grandmother died, aged 81 years.

My mother, Polly Andrews, born November 5, 1797, died in Syracuse in 1883, aged 86 years. Her father died in 1845, aged 80 years. Her mother died in 1838, aged 63 years. My paternal great-grandfather died in his 80th year. My paternal great-grandmother died in her 74th year.

Edward Gayer Andrews (Bishop Andrews), son of George and Polly Andrews, born August 7, 1825, died December 31, 1907 (in Brooklyn), aged 82 years.

William H. Shankland (Judge Shankland), born in 1804, died in January, 1883. Lucia E. Shankland (his wife), born in 1806, died in 1862.

NOTES ON LONGEVITY.

I publish a letter from Wm. H. Guilfoy, M.D., Registrar of Records of the Department of Health of New York City, containing the tables of the centenarians who have died from June 30, 1907, to June 29, 1908, born eleven months less than a year of both dates inclusive.

DEPARTMENT OF HEALTH,
CITY OF NEW YORK.

HON. CLARK BELL, NEW YORK, July 17, 1908.
39 Broadway, New York City.

DEAR SIR:—Enclosed please find a list of centenarians deceased from July 1, 1907, to July 1, 1908.

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I cannot give you the names of the nonagenarians, as this would necessitate the handling of over 70,000 certificates, but I send instead the number of deaths reported at 90 years and over.

Yours respectfully,
WM. H. GUILFOY, M.D.,
Registrar of Records.

Date of Death. 1907.	*Name.*	*Age, Years.*	*Birth-place.*	*Cause of Death*	*Borough of Death.*
July 30	Catherine Gilligan	107	Ireland	Gangrene	The Bronx
Aug. 21	Townsend Miller	106	U. S.	Senile Gangrene	Queens
Sept. 20	Lucy Canwell	103	U. S.	Heart Disease	Brooklyn
Oct. 5	Teresa May	102	Germany	Senility	The Bronx
" 12	Tony Friedman .....100y. 2m. 4d.		Hungary	"	Brooklyn
Nov. 25	Margaret Horn	100	Ireland	Br. Pneumonia	Manhattan
Dec. 7	Annie Friemark	101	Russia	Chr. Bronchitis	Brooklyn
" 8	Moses August	101	"	Chr. Ulcer leg	Manhattan
" 10	Hannah Morseliena ...	107	"	Senility	Manhattan
" 11	Margaret Carpenter ...101y. 4m. 16d.		U. S.	"	Brooklyn
" 11	Leo Raphelowitz	102	Russia	"	Manhattan
1908.		100y. 7m. 18d.	Ireland	Atrophy of liver	Brooklyn
Jan. 5	Maria Hazelton		(Austria)	Senility	Brooklyn
" 16	Mary Rubowitz	105	Hungary	Heart Disease	Manhattan
" 30	Mary Galvin	103	Ireland	" "	"
Feb. 27	Abraham Levy	102	Russia	Senility	Manhattan
Mch. 15	Bridget Cummins	100	Ireland	"	"
Apr. 10	Sarah Levin	103	Germany	Br. Pneumonia	Brooklyn
" 15	Betsy Gage	100y. 5m.	U. S.	Heart Disease	Manhattan
May 9	Jane Slaughter	103	U. S.	Run over by wagon	Brooklyn
June 29	Vito Buglio	100	Italy		

It will be observed that the deaths of women exceed that of men.

In the five months of 1907:
Men 3
Women 7
10
Six months of 1908:
Men 2
Women 7
9
19

CENTENARIANS.

Barmel Wolinsky, born in Kobine, State of Grodno, Russian Poland, as he believes, in 1802, now lives with his son, Max, at No. 258 Thalford avenue, Brooklyn, N. Y.

He has 90 children and grandchildren. He recalls seeing Napoleon at Moscow, when he was a boy of ten; is 105 years old, in the full possession of his faculties.

He emigrated to New York 22 years ago, having just then married his second wife, after he was 70 years of age. She died in 1907 and he still survives her.

The New York *World,* which has contributed a great deal to the study of longevity, gives the name of Juliana Lopez, of the city of Guatemala, as the oldest living woman on this continent. Born in 1777 on the Ayarza Plantation, she is 131 years of age, and is still active, can walk 2 or 3 miles a day, with eyesight good

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and remarkable memory. She is now in the employment of Miss Trinidad Vagris and performs light domestic duties daily.

We give a translation of an article from a German newspaper:

A CENTENARIAN.

Last Friday there died at Horncastle the oldest preacher of the world, Rev. Thomas Lord. On April 12, 1908, he celebrated his one hundredth birthday. King Edward sent him a letter of congratulation. A week ago last Sunday he still preached; then a few days afterwards he succumbed to an indisposition from which he never rallied. For seventy-six years last past he was an independent preacher. He began his career by learning the trade of shoemaker. He never attended any other school than the Sunday-school, and learned to read and write without instruction, but, as he himself said later, he never practiced the second art. While he was still making shoes, he commenced preaching in a village church. He used to scribble his Biblical text and memoranda upon small leather strips and from these strips he preached ex tempore, and his sermons were nothing but leathern. Although married three times he could not celebrate his golden wedding with any of the three wives.—*From the Duerkheimer Anzeiger,* September 2, 1908.

NONAGENARIANS.

George A. Street, of Great Barrington, Mass., father of Judge W. Street, of New York, and H. Lewis Street, of Brooklyn.

Hon. George T. Spencer, ex-County Judge of Steuben County, died March 4, 1908, at Corning, N. Y., at 94 years of age.

Last men of Yale class of 1837, Warren Rowley, of Hartford, Conn., grocer and shipping, aged 90.

Lord Gwydyr, sometimes called "The Father of the House of Lords," is still hale, active and attentive to his duties in the English House of Lords.

Lord Gwydyr was born in 1810, before the battle of Waterloo was fought.

He came into the Baronetcy when he was 60 years of age. He is a great grandson of Peter Burrel, the Commissioner of Excise.

Two of Lord Gwydyr's daughters married dukes and one an earl, and his son married the sister of a duke, who became Great Chamberlain of England in her own right.

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His life has been one of activity and usefulness. He is now in his ninety-ninth year and will, no doubt, reach the century mark, in May, 1910.

Theodore Louis Cuyler, 90, second cousin of Mrs. Hudson Riley.

General Alexander Hamilton spoke at the dinner of the Cincinnati Club in New York, at Manhattan Club in 1906, at the age of 90, with remarkable power of eloquence.

The Muncey twins, William Muncey and Samuel Muncey, passed their 89th birthday Christmas, 1907, and will, if they live, reach the 90th mile post on Christmas next. They now live together near Babylon, Long Island, and are both in possession of their faculties and bid fair to reach the century mark.

John Adams was the only President of the United States that reached the age of 90 and he died at 91; Monroe, John Quincy Adams, Andrew Jackson, reached the age of 81, and Thomas Jefferson of 83.

Judge Bockes, one of the oldest living judges of the New York Supreme Court, died at Saratoga in his 92d year. His activity and usefulness remaining until near his death, which occurred last fall.

He was one of the last of the old school of judges, who served in the old Court of Appeals under the rotation system while on the bench of his district.

Mrs. J. Toad, of New Germantown, N. J., is 95 years of age. Her parents were respectively 94 and 95 years of age at the time of their death.

Helen Jones Stewart, widow of Charles Ross Stewart, died last year at Cold Spring Harbor, L. I., N. Y. Her funeral was held at St. John's Church. She was then in her 91st year and her death and funeral announced in the New York *Herald*.

Cornelia Whiting, died last summer at Hudson, N. Y., in the 90th year of her age. Her funeral was held at the residence of her son-in-law, Wm. H. Covill, and announced in the New York *Herald*.

Mrs. Caroline Smith died last summer at Vineland, N. J., in the 95th year of her age. Her death was announced in the New York *American*. She was the granddaughter of Major General Henry Knox, who was George Washington's Chief of Staff.

I have asked Dr. W. H. Guilfoy, Registrar of Records, to give the number of nonagenarians who died in Greater New

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York, and I publish his report. For all of 1907, 300; for six months of 1908, 143; so that the mortality of 1907 was the greater.

NONAGENARIANS.

Borough.	*1907.*	*1908.*
Manhattan	139	64
The Bronx	23	8
Brooklyn	122	58
Queens	14	8
Richmond	12	5
Total	300	143

The evening edition of New York *Staats Zeitung*, August 27, 1908, announced that:

"John H. Starin, the head of the Starin Transportation Lines, celebrates, to-day, his 83d birthday, which, according to his own statement, as he is in the habit of doing, for the greater part at his desk." Mr. Starin is a luminous example of usefulness at what we have been taught to regard as old age. His activeness and his capacity for useful work seem not to be surpassed. He bids fair to reach a century of life and it will be one of usefulness to his race.

The same journal announced the death of John J. Greenough, as one who throughout his whole life made a whole series of inventions, from which others accumulated a profit of more than $100,000,000. He died at Boston at the age of 79 years. Greenough was the first man in America who caused the invention of a sewing machine to be patented. This was in the year 1842. From 1837 till 1841 he was himself at the head of the Patent Office at Washington. Mr. Greenough may be classed as a man of great inventive genius and his life one of usefulness.

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EDITORIAL.

THE REPORT OF THE COMMISSIONERS IN LUNACY FOR 1908 FOR ENGLAND AND WALES.

This volume of 548 pp. reaches us as we go to press. The commissioners at present are

The Earl of Waldegrave, Chairman,
Sir John E. Dorington Bart.

Medical Men.	Legal.
Frederick Midham, Esq., M.D.	Harding F. Gifford, Esq.
Eillarriott Cooke, Esq., M.D.	Lionel L. Shadwell, Esq.
Sydney Coupland, Esq., M.D.	Arthur Hill Trevor, Esq.

Secretary—Barnard Thomlin Hodgson, Esq.

The total list of insane in England and Wales on January 1, 1908 was 126,084, an increase from January 1, 1907, of 2,096.

There is a steady annual increase, and has been recently, for the last ten years, averaging 2,411, and for last five years 2,424. 1907 was under the average.

The increase in the criminal insane (males 142, females 241) is about 20 for 1907.

The ratio of the total insane on January 1, 1908, to the whole population was 1 to 280, or about 35.67 per 1,000. The total deaths run 9,890, a little under the average for last decade.

Praising study and reasearch work in asylums and giving high praise to Sir James Crichton Browne for his admirable work at Wakefield Asylum as far back as 1871-1876, and the work of Dr. F. Willatt, recorded in "Archives of Nurology" at London co-cernial laboratories and at the Lancashire and York asylums and notably the system they criticize the action of the Northumberland County Asylum for abolishing the office of clinical assistant for alleged economic reasons only.

The whole report is along the established lines—and this is the 62d report, and is quite up to the high character this important work has been entitled to the credit for the last quarter of a century that we have reduced its contributions to the sum of insanity in England.

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INTERNATIONAL CONGRESS ON MEDICAL JURISPRUDENCE.

The Medico-Legal Society of Belgium announces an International Congress on Medical Jurisprudence to be held at Brussels in August, 1910. The Medico-Legal Society of New York, has received an invitation through its President from the President of the Medico-Legal Society of Belgium, of which the following is a copy:

New York, July 14, 190 .
(Belgium), Brussels, July 3, 1908.

Dear Sir:—

The Medico-Legal Society of Belgium will hold, at the city of Brussels, on the beginning of August, 1910, an International Congress on medico-legal jurisprudence.

There will be four divisions: 1. Medico-legal division; 2. Medico-mental division; 3. Bactero and toxico division; 4. Leglislative division.

The programme and other papers, not yet elaborated, will subsequently be sent.

The Medico-Legal Society of Belgium would be very happy if you would, and also other members of the Medico-Legal Society of New York, do us the great honor of co-operating in the works of that Congress, by means of reports or communications on one or more matters at your or their discretion, but, however, in connection with one or more divisions of the Congress.

Your large knowledge in legal medicine is highly known and appreciated in the whole world. As we have the honor of counting you among our members, we hope, dear sir, that you will, if it is possible, personally contribute and take part in the work, and specially prepare and make a report or communication.

We beg you to communicate this letter to the honorable members of the Medico-Legal Society of New York.

Awaiting the favor of your reply, we are with great esteem, dear sir, your most obedient servants.

The President of the "Societe de medicine legale de Belgique.

A. de Busschere,
rue Lesbroussart, 45,
Brussels, (Belgium).

To Mister CLARK BELL, Esq., 39 Broadway, New York, President of the Medico-Legal Society of New York.

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The following reply has been sent to the Medico-Legal Society of Belgium:

Medico-Legal Society.
Office of the President,
New York, July 14, 1908.

Honored Sir:—

The Medico-Legal Society of New York accepts with pleasure and thanks the polite invitation of the Medico-Legal Society of Belgium to co-operate in the work of the proposed International Congress to be held at Brussels in August, 1910, and it will take great pleasure in naming delegates to represent the Medico-Legal Society of New York at that Congress. If agreeable to you, the President of the Medico-Legal Society of New York will name an Auxiliary Committee to co-operate in your work and will announce its membership to you shortly after we are notified of your concurrence.

You may enter me as a member of the proposed Congress and advise me what sum will be required for me to forward to your Treasurer.

I already announce the following papers, which I will contribute to that Congress.

1. Preventive Legislation Against Tuberculosis.
2. The Relation of Human to Bovine Tuberculosis.
3. The Utility and Propriety of National, State and Municipal Sanatoria for Consumptives.

I beg you, sir, to communicate to the members of the Medico-Legal Society of Belgium my best thanks and most earnest wishes for their prosperity and success and to assure you of my distinguished consideration, I remain,

Ever faithfully yours,

CLARK BELL,
President Medico-Legal Society of New York.

To the Hon. A. de Busschere, President of the Medico-Legal Society of Belgium, rue Lesbroussart 45, Brussels, Belgium.

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UNCLE REMUS.

Joel Chandler Harris, who has passed on from the field he has so long held in the literary world, on July 3, before he had reached the age of 60 at his home at Atlanta, Ga. There was no decline in his work, and his unique place will not be filled.

He was clean and good and wholesome in his work.

His stories for children were as much a pleasure to the father and mother as to the child. It has well been said of him and his work: "We are all the poorer for his death. His death seems untimely, and the quality of his work was at its best now when we miss him most. His well-known high appreciation of the character of Lincoln will be long remembered."

INEBRIETY.

The London *Lancet* of May 16, 1908, makes the following announcement:

FEMALE INEBRIETY IN LONDON.

Mr. Bright asked the Secretary of State for the Home Department whether he was aware that, at the County of London Sessions, the magistrates had recently been compelled to discharge several female habitual drunkards who would have been committed to homes had there been any accommodation to receive them; whether this situation had arisen through the failure of the County Council to provide such accommodation; and whether he proposed to take any, and, if any, what action in the matter. Mr. Gladstone replied: "I am sorry to say that magistrates in London have recently had many such cases before them. In answer to a question put to me in February, I set out at some length the causes which have given rise to this situation. I have appointed a committee, of which the honorable Baronet the Member for the Chippenham division is chairman, 'to inquire into the operation of the law relating to inebriates and to their detention in reformatories and retreats, and to report what amendments in the law and in its administration are desirable,' and I hope the committee will be able at an early date to suggest a solution of the difficulties which are rendering the Inebriates Act of 1898 practically inoperative so far as London women are concerned."

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JOHN WILSON MacDONALD.

My old, tried, life-long friend has passed into the friendly, open arms of the Infinite. That great, grand heart, free, boundless, that beats for every noble cause, throbbed in unison with all that was good, uplifting; full of tenderness, compassion, gentleness, and love like that of John the Disciple, has stopped its pulsations, and is still as it enters the portals of the vestibule of that sublime life of the beyond.

We are selfish when we ask him to remain longer, because we loved to have him with and near us. It was for our pleasure, not his, nor his gain.

His race was, doubtless, run when he laid down the chisel, the mallet, or the gifted mould, of the human face and form, where his genius lay and his great gifts. He was the last of that grand band of men who helped to mould and found the school of the splendid sculpture of the men of the great West. He was an artist of high ideals. The keynote of American Art with MacDonald was Patriotism. His statuettes of Washington will remain in American schools for centuries to come.

His noblest conceptions were of the ablest and worthiest names of his country's history. Like Titian, he worked to the end. He did not die of old age. Had he not been a victim of unexpected disease, he would have been as useful in his nineties as he was in his eighties.

He loved Missouri and he loved St. Louis. He had given his greatest efforts to the metropolis of his country. He dearly loved New York. He had surrounded himself with many warm and dear friends to whom he was endeared and by whom he was beloved.

American sculpture and American art have been enriched by his life and work. He was a great student of anatomy and of the higher fields of scientific study. He was well versed in the national sociological work; in American progress, in scientific endeavor; and had for years been actively interested in the work of the Medico-Legal Society and its progress, and took part in its discussions, often speaking and writing on its problems. He was a credit to his profession, to his country, and to the elder school of those artistic men of the great West, who have done so much to help place the American name on the high plane in the civilization of our time which it now holds.

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BISHOP POTTER'S DEATH.

The death of Bishop Potter, of the Dioceses of New York, removes one of the most prominent of the leading citizens of the American Metropolis.

Outside his career as a Bishop of the Church, which office he adorned and graced, he was one of the most influential private citizens, and was unanimously esteemed and beloved.

His rally when he was given up by his physicians, gladdened thousands of hearts outside his own church, and his death, which seems untimely, as he was vigorous, forceful and useful to the last illness, shows a splendidly rounded, well ordered useful life, which won the confidence and love of all who knew him.

Educated in the Evangelical school, and during his rectorship of Grace Church recognized as a Broad Churchman, he never identified his bishopic with any party in the Church, either High, Broad, or Evangelical; and in his administration showed neither favoritism nor hostility to St. George's, which represented one extreme, or to St. Mary the Virgin, which represented the other.

Great bishops have been of two types—the statesman and the priest. Historic illustrations of the two are afforded by Pope Leo XIII and Pope Pius X. Bishop Potter belonged to the first type. He was not an ascetic, not even a Puritan. If Boston is the Athens of America, New York City is its Corinth. Bishop Potter was a Corinthian bishop of a Corinthian diocese. He interpreted the Church to the world and the world to the Church, for he understood both. His social tastes were aristocratic, but his principles were democratic, and in his administration he played neither to the boxes nor to the gallery. He had dignity, perseverance, courage, and great diplomatic skill, but his diplomacy was that of a catholic, not of a cowardly or compromising character. He believed in a social Christianity long before the present semi-socialistic movement in the Church.

Not only was he personally a great power for civic righteousness, but his leadership had a great deal to do with making the Episcopal Church in the city of New York an organized force for higher political and social life.

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HINC ILLÆ LACRIMÆ.

From Punch.

[It is said that an antiseptic property has been discovered to exist in tears.]

Hearken, my friends, to the last therapeutical
News, that may save you your medical fees;
Listen, and drive from your tissue and cuticle
Any attack of infectious disease;
Learn how the mumps and the measles and scabies
Straight from a lachrymal drop disappear;
Chicken-pox, atrophy, fever and rabies
All of them run at the sight of a tear.

Had but the Greeks, in the days of Thucydides,
Scented the use of a blubbering eye,
Then had they lived in a slightly sore-lidded ease,
Never lain down in their thousands to die;
Had the Florentines dreamt of the properties,
So prophylactic, of weeping and wails,
Then they had started to weep and to mop hurt eyes,
And we had wanted Boccaccio's tales.
Germs are concealed in a penny or halfpenny;
Therefore at shops, when receiving your change,
Shed on the coppers a tear, and escape any
Perils of eczema, struma or mange.
Yes, and 'tis probable, too, that a germ'll lie
Hid in a handshake, a kiss or a touch;
Weep then when shaking the hand of a firm ally,
Weep when you kiss your inveterate "Dutch."
Pollen brings fever that troubles your ocular
Organs and darkens their luminous ray;
Weep then, however internally jocular,
When you are looking on barley or hay.
But, that the cure may not ruin your eye, oh, be
Careful to shed but a modest amount;
Lest, like the recklessly sorrowing Niobe,
You should entirely dissolve to a fount.

BACK NUMBERS MEDICO-LEGAL JOURNAL.

Numbers one and two of Volume L of the MEDICO-LEGAL JOURNAL are out of print and have been for years. We have offered $2.00 a copy for these numbers to fill orders. If members or others who wish to obtain these numbers to complete their sets will furnish us with their names and address, we are now arranging to have these numbers reproduced, so as to be able to supply them to those who want them.

Arrangements are completed to supply No. 1 of Vol. I all ready and we hope to be able to do the same with No. 2 of that volume.

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RESEARCH DEFENCE SOCIETY.

Stephen Paget, Hon. Secretary of this movement, of 70 Harley St., London W., made an announcement and appeal in the London *Lancet* of May 16, 1908, of the organization of the body with 1100 members of whom 100 were ladies. He announced the Vice-Presidents headed by the Marquis of Salisbury; Lord Ludlow; Sir William Turner; the Bishop of Chester; Lord Fortescue; and called attention to leaflets issued naming them, embracing essays by Colonel David Bruce; Prof. Cushny reprints of Lord Justice Fletcher Moulton's evidence before the Royal Commission.

This movement seems to have received a splendid welcome in London and is destined to be of great service in protecting scientific research in the British Islands.

Lord Cromer is its President, and the *Lancet* of April 25, 1908, published a long list of very prominent names of Vice-Presidents, showing the very strong support it now has on the general public in Great Britain.

HYPNOTISM AND CRIME.

THE *DUERKHEIMER ANZEIGER* OF JULY 14, 1908, Vienna, states that Dr. Alexander Vilcz, a professor in the University at Vienna, addressed a meeting of the Leo-Society on the subject of "Murder through Hypnotism." After having discussed the various hypnotic stages the speaker arrived at the conclusion that the fears that an honest person could be induced against his will to cimmit a crime, did not rest upon any scientific basis.

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BOOKS, JOURNALS AND PAMPHLETS RECEIVED.

Lee M. Hurd, M.D., New York: "The Submerged Tonsil, with Special Reference to Cervical Adenitis and Systemic Infections." Reprint from *American Medicine*, July, 1908.

Typographic Messenger, Vol. I, August, 1908, No. 1.

Treasury Department: "The Present Pandemic of Plague," by Assistant Surgeon-General J. M. Eager.

The American Digest System. Published by the West Publishing Co., St. Paul, Minn.

Ariel, Vol. II, No. 2, August, 1908. Published by Geo. Elmer Littlefield at Westwood, Mass.

The Battle Creek Idea, Vol. I, No. 35, August 13, 1908.

An Insane Hospital Annex Reformatory and Sanatorium for Insanoids or Semi-Fous. By C. H. Hughes, M.D. Reprint from the *Alienist and Neurologist*, Vol. 29, August, 1908, No. 8.

E. S. Goodhue, M.D.: "Mosquitoes and Their Relation to Disease in Hawaii." Reprint from the *St. Louis Medical Review*, January, 1908.

American Issue, Vol. 4, No. 9, September, 1908.

Journal of the Oklahoma State Medical Association, Vol. I, No. 3, August, 1908.

Legal Obscenity and Sexual Psychology, by Theodore Schroeder, New York. Reprint from the *Alienist and Neurologist*, August, 1908.

The Monthly List and Fall Announcement of New Macmillan Books, September, 1908.

U. S. Department of Agriculture, Forest Service: "A Primer of Wood Preservation." Circular 139.

Albert C. Geyser, M.D., New York City: "The X-Ray in Dermatology; or Truth and Fallacy Concerning X-Ray Dermatitis." Reprint from the *American Journal of Surgery*, May, 1908.

Albert C. Geyser, M.D., New York City: "Using the X-Ray Without Burning." Reprint from *Journal of American Medical Association*, March 28, 1908.

Albert C. Geyser, M.D., New York City: "The Diagnosis and Treatment of Rheumatism and Allied Affections." Reprint from the *Journal of Advanced Therapeutics*, August, September and October, 1906.

Catalogue of the Law Library of the Late Joseph Willard of Boston. Auction sale, September 23 and 24, 1908.

The Bulletin of the Medical and Chirurgical Faculty of Maryland. Vol. One, September, 1908, No. 3.

The Sixth Annual Report of the Department of Public Health, Colorado Springs, Colo.

48th Annual Report of the Equitable Life Assurance Society of the U. S., ending December 31, 1907.

Col. F. J. Lambkin, R. A. M. C.: "The Treatment of Syphilis by Arylarsonate.

School Hygiene. Issued by the American School Hygiene Association, Boston, Mass. Vol. I, No. 2, September, 1908.

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BY THOS. BASSETT KEYES, M. D., OF CHICAGO.

Author of the Cure of Consumption With Subcutaneous Injections of Oil, Etc.

STAMINA, VIGOR AND VITALITY.

Ask any healthy real old person if he is fond of fat foods and if he always has been. I have asked this question of every healthy real old person with whom I have come in contract for the past ten years, and every one of them has answered that he has always eaten a good supply of fats in some form or other. From the observation of a large number of individuals I am satisfied that stamina, vigor and vitality come more from the eating and assimilation of fat foods than of all other things.

If we inherit these habits from our ancestors I believe it to be true that we are blessed with a better constitution and a greater abundance of life and health than we would be if from a line of poorly nourished forebears. The amount of fat which the blood contains varies from 0.1 to 0.5, or even 1 per cent. and sometimes more, according to the amount eaten and assimilated.

The infant inherits the richness of its fat. Some infants it is needless to say are better nourished than others. The richness of its fat would not alone affect the adipose or fat tissue, but would affect every tissue of the body, from the marrow of the bones to the entire nervous system. In treating people the remark is often made that it is not natural for them to become fat, because their parents were thin; or from another

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party that they should gain in weight easily, because their parents were fleshy.

Since all physiological actions, such as digestion and assimilation, are the result of inherited habits, it is probable that the habit of eating, and the assimilation of certan foods become somewhat fixed. Thus the Eskimos do not eat any vegetables whatever, and cannot seem to tolerate them. They can, however, eat several pounds of fat at one meal, and it is well to remark here that they are free from tuberculosis, and also intestinal catarrhs and appendicitis. It is also said that their teeth never decay even among the aged. Individuals among all races who eat large quantities of fat are not likely to be affected with any disease.

That fat or oil exerts a great influence upon living matter, life and energy, conclusions may be reached from the facts: that it forms a part of most cells and tissues of the body and that the adipose tissue is the first to be drawn upon to supply nourishment and fuel in case of sickness or lack of food. In protoplasm even of the lowest type it is common to find under the microscope granules containing fatty matter. Fatty matter but not in the form of adipose tissue makes up a large portion of the brain and is found thus in many vital fluids, in the liver and blood. Hair looks dead when there is not sufficient oil from the scalp to nourish it.

Children are the creatures of imitation. If their parents like fat foods it is quite likely that their children will, but if they do not they should be taught their value. The only way

THE KEYES OIL SYRINGE.

The above syringe was devised by the author for making subcutaneous injections of oil. Cut about one-third size.

that we can assimilate fat foods well is to constantly eat them

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and form the habit of assimilating them. When fat foods cannot be assimilated well, the subcutaneous injections of oil will, it seems, start up the machinery of the body to their use, and by training the person to a fat diet, we soon have him again running under full heat, force, vigor, vim and vitality. He is converted from a machine of low to high power.

THE ATTAINMENT OF SUCCESS.

The attainment of success often depends upon our physical constitution. Some ambitions are higher than their physical conditions will allow them to reach. Thus, this morning a patient came to me to be treated with subcutaneous injections of oil for a weakened constitution. She said that her ambition was to come before the public as a singer. She had a beautiful voice, but lacked the physical constitution. This constitution we are going to give her by training the system to take up fats and oils and by training the intestine to assimilate fats. Her lungs will develop and in proportion to the amount of fat assimilated will come strength and vitality. If we could assimilate all the fat which we could eat and then by training or directing the energy and force that could thus be generated into work, there would be much greater things accomplished. When this becomes better understood and a few generations have followed these precepts, then there will be a race of men like gods. Then men will be better able to use the force, heat and vitality which comes from fat foods.

While we should exercise and exert ourselves only in proportion to the amount of carbon foods in our diet, we should on the other hand exert ourselves sufficiently to use up this carbon and not allow it to be stored up in the body in too great a quantity. It is said that every individual has his own co-efficient of heat production, depending upon the amount of heat producing foods eaten and assimilated and the activity of tissue changes.

LIFE FORCE.

Life is the force and power of the body and is dependent upon nutrition and air. The body of itself from infancy to a certain age of the individual is a storehouse of nutrition from which the blood may draw, and when this blood circulates to

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the lungs it gives up carbon and takes in an amount of oxygen which corresponds to the amount of carbon excreted. It is this chemical exchange which produces the life, heat and force of the body. The oxygen is derived from the air; the question therefore remains: From whence do we derive the carbon? This can come from only one source. It must be derived from that which is taken into the body for nourishment. The new born babe has a certain amount of carbon stored in its body, in the fat tissues, in the fat deposited between muscular tissue, and in the marrow of its bones. Sugar is a carbohydrate and fat is a hydro-carbon, but fat supplies about two and one-half times more force and heat than any other substance used as food. It is therefore the most important in the production of life. Oxygen, carbon and hydrogen compose 94.6 per cent. of the human body, in the proportion of oxygen 72.0, carbon 13.5, and hydrogen 9.01.

Milk, the natural food of the young (but not sufficient for the aged), has been described as a thin syrup which holds in suspension small globules of oil. The infant, therefore, sustains its life from the nutrition derived from milk, which, being absorbed and taken into the blood, gives force and heat and life by the chemical exchange of carbon, its sugar and fats, for oxygen which goes on in the lungs through our breathing.

Life force varies in different individuals and different animals, depending largely upon the amount of heat generated from foods and from the activity of metabolism. Because the assimilation becomes deficient with age, old people are always cold and produce less heat. They do not absorb and consequently do not breathe out sufficient carbon foods. For this reason subcutaneous injections of oil will supply the fuel which is lacking and which without proper training they cannot assimilate from their diet.

WE SHOULD NOT BECOME TOO FAT.

Lest some one think that I am advocating a race of fat people, it will be well to explain here that we should not become too fat. Only a plump amount of fatness is to be recommended. Rather than too much fat we should breathe deep enough and generate and use a high power of nerve energy. In-

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creased activity promotes rapid change from oxidation, but the two processes of waste and repair should be equal, for if the waste exceed the repair we decay. All fat people are not healthy mainly for the reason that fat varies greatly as to its amount of richness in oil. Some fat is watery and then it it a drone which requires to be fed. When fat tissue is once formed it should be kept well fed with oil so that it may be useful and a storehouse from which fuel may be drawn Fat people who withdraw fats from their diet are subject to watery fat, gall stones, liver diseases, weak heart, intestinal catarrhs, diseases of the kidneys and many other diseases. There are perhaps as many fat people who suffer from being poorly nourished as thin people. These fleshy people with watery fat often receive great benefit from the subcutaneous injections of oil in that it nourishes the connective tissues and changes their fat from a drone to a storehouse of energy.

MAL-NUTRITION DUE TO FAULTY NOURISHMENT THE CAUSE OF LESSENED VITALITY.

Mal-nutrition due to faulty nourishment is the prevalent condition of the human race. It is the forerunner and often the cause of lessened vitality, of incapacity for work or enjoyment, of chronic diseases, and of more suffering than all other causes combined. The rapid wasting produced by high fever from acute diseases indicates rapid metabolism and the need of the body for fuel to overcome disease. It is Nature's remedy and plan of the body to combat disease. Many people die for the tissues are so poorly nourished that they are insufficient in fuel. It is needless to say that living tissues cannot live without food.

OLD AGE AND THE PREVENTION OF SENILITY.

Wheat will not grow in worn-out soil. The most prominent characteristic of old age and senility is lack of cell growth. The repair of cells and tissues is not equal to the waste, which is shown first by a shrinking away of the fat tissues of the body, leaving the skin dry and wrinkled. Then the fat or marrow of the bones gives way to cancellous or bony tissues. The bones and all tissues of the body shrink in size, and become less elastic, and as the oily parts of the

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fats and the fats from all tissues of the body disappear the arteries become hardened. As senility approaches or advances and as the condition of faulty assimilation supervenes all organs of the body become defective. As all living tissues are characterized by constant change, and when repair does not equal the waste to decay, then to keep up growth and prevent decay we must try to keep up nourishment and assimilation. The growth of all living tissues has a certain limit, and when old age comes we cease to keep up good assimilation. Oil subcutaneously injected is the most readily absorbable tissue builder and will do more to increase the activity and assimilative powers of the blood cells and individual organs of the body, than any other means.

LONGEVITY AND PERPETUAL YOUTH.

If constant repair of tissues with assimilation and displacement of nutrition could be maintained as perfect as in youth, then youth would be perpetual. Therefore, a perfect youthful body if free from disease and deformity, should maintain that perfection by the perfect regulation of nutrition, by which I mean: that each individual cell of the body should be maintained in a constant and proper equilibrium of nutrition.

Oil, when injected subcutaneously, is a substance upon which the white corpuscles feed, an affinity, and since the fat tissues of the body are those which shrink away first in old age, it will be seen that by injecting oil thus we supply the fat tissue oil, the marrow of the bones with oil, and by this oil prevent the hardening and bony calcareous formations. Through this feeding or nutrition we increase the activity and individual cell activity of every organ and tissue of the body. Most cases of early senility with a shrinking in nutritive conditions, together with the common diseases of old age, such as chronic bronchitis, may be relieved by the injections of oil subcutaneously.

It is a physiological fact that the amount of carbon-dioxid exhaled by the lungs of males increases regularly from the eighth to the thirtieth year of age, and from then on until about fifty this amount remains at about the same preservation, or stationary. After the fiftieth year and as age advances the amount of carbon-dioxid gradually declines until

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it scarcely equals the amount exhaled at the tenth year of age. Women do not exhale as much carbon-dioxid as men of equal ages. The amount increases gradually from the eighth year to that of puberty, after which it remains in the same state of preservation until menstruation ceases, when the carbon-dioxid exhaled declines at the same rate as in old men.

There is a relation closely connected as we have here tried to point out, all along, between the amount of carbon-dioxid exhaled (the used power of the body) and the amount of stamina, vigor and vitality which the body contains. If we could keep this power at the same preservation, after the age of fifty as it has been before, then enfeeblement and old age would not leave its marks. But it is evident that the carbon forming foods are not assimilated so well after the age of fifty, because the carbon-dioxid can come from only one source —the food assimilated—and that which has been stored in the body. The stored fuel of the body, the fat from every tissue yields to age as it advances and we become wrinkled and shriveled and shorter and smaller every way.

If the body had been able to assimilate the fats from the diet it would not have been necessary, as Metchnikoff puts it, for the leucocytes to feed upon and devour the fatty tissues of the body. As it is evident from the facts that carbon is not excreted by the lungs and exchanged for oxygen, so well after the age of fifty, but that it gradually declines, it proves from this fact alone that fats (hydro-carbons) are not so well assimilated at this age, and this explains the reason for lessened carbon excretion, the shrinking away of the fat and fuel tissues of the body and the advances of senility. The fats not being assimilated from the intestine the subcutaneous injections of oil should be used to overcome the advances of age, and by this means necessarily increase the amount of carbon-dioxid exhaled in the production of increased heat and life and vigor and health. The habit of assimilating fats from the intestine should be re-established.

But the individual organs of the body, the lungs, heart, kidneys and liver, etc., like individual cells tire and lack in life or vitality by not being properly nourished and thus become affected by old age and disease. As it is the fat foods which supplies more heat and force and vitality than any other

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foods, and as they are not well absorbed in the aged, a course of treatment with oils injected subcutaneously offers increased health and vigor. The patients I have treated for lack of vitality have experienced pleasing results in the improvement of nutrition, force and vitality; in fact it would seem that there is produced by this method a renewal of life.

THE BRAIN AND NERVOUS SYSTEM.

The brain and nervous system contain a large percentage of oily matter. The various manifestations of nerve force are brought about by the transformation of heat from oxidizable foods or fuel.

The grey matter of the brain is an oily substance. The medulary or myelin sheath or white substance of Schwan is a fatty substance. It is said to be made up of a fine reticulum in the meshes of which is embedded bright fatty material.

The influence of fat and oil nutrition upon the functions of the brain and nervous system, and thus upon the entire body, must be very great, for upon the nervous system greatly depend the other tissues of the body as to their metabolism, which is shown by the fact that the heat of a limb falls after division of its nerve, and also in a limb which is paralyzed.

THE HEART.

The heart is an organ which must work constantly to keep up the flow of nutrition so essential to the life of the body. As it constantly works it must require vitality and force in abundance. Its muscular fibers must possess force and power never to complain of being tired, and great vital elasticity to constantly contract and expand, and to increase its work in times of exertion.

No article that man could make could stand this contraction and expansion and stretching of fibers without very soon being worn out; it is, therefore, reasonable to expect very rapid tissue metamorphosis in an organ working like the heart.

In many acute diseases, especially with fever, it is often the heart which fails because the stored fuel of the body has been consumed and there remains nothing for the heart to feed upon and keep up its nutrition and vitality. So long as

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the heart is above a certain standard, most all diseases are considered of a favorable prognosis. Therefore, anything which can supply the material to produce force, heat, and vitality to the heart is a therapeutic agent of the greatest efficiency, and as all vital processes have their origin in the energy liberated by the chemical decompositions going on in the organism, it follows, that oils injected subcutaneously and taken up by the blood, constitute a means of increasing metabolic activity of any organ and all parts of the body.

In the treatment of many cases of tuberculosis, I have frequently encountered cases in which there existed some form of chronic carditis. It is in these conditions of chronic heart inflammation which may exist in some part of the organ that I particularly recommend the subcutaneous injections of oil. Not to the exclusion of other remedies, for I have found the greatest good to come by using other alteratives and the oil. Besides the nutritive and fuel value of the oil in producing vitality, force and heat, I speak of it as an alterative, for it is the greatest of all alteratives and in these cases I have found it to be almost of vital importance.

THE LUNGS.

The lungs are the smokestack of the human engine and like the heart they must keep up with their constant work. The exchange of carbon-dioxid for oxygen must go on, for this is the principle of life. The lungs being composed of a fine tissue which contracts and expands continually and being exposed to constant wear, they are not easily healed when once they become diseased, unless we are in a high state of nutrition. The lungs use up more heat and vitality than any other organ of the body. The lungs both give and take. They take away carbon and supply oxygen and in this chemical exchange the principle of life is produced. Lung exercise should be in proportion to the amount of carbon foods eaten. It should be just sufficient to oxidize the carbon foods eaten, for if there is not a good supply of carbon (carbo-hydrates and fats, or hydro-carbons) in the diet and a good store of fat in the tissues, if too much lung exercise is necessary to carry on the force of great exertion, then these fats being ex-

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hausted, other more vital tissues will be drawn upon. As a consequence of this the body would become exhausted.

When one is in the habit of eating and assimilating a good amount of fat the exhausted body soon recuperates. We should use our lungs just sufficiently to oxidize the carbon foods and not allow them to be stored up in too great a quantity as fat. The lungs will develop according to the amount of fats eaten, for this is excreted principally by the lungs. As the lungs use up a large amount of heat in carrying away a fine watery vapor, fats and heat producing foods are essential to their health. The results which I have accomplished in the treatment of tuberculosis of the lungs, prove absolutely that the subcutaneous injections of oil meet every indication in the treatment of pulmonary tuberculosis or any chronic inflammation of the lungs.

THE KIDNEYS.

The kidneys are excretory organs and are essential to life, for without excretion man would poison himself; they, therefore, play a very important role in the maintenance of life.

As we have compared the lungs to the smokestack, we may say that the kidneys are the ash grate of the human engine. If the ashes are not kept raked away, the body soon clogs and there is lessened draft for the warming fire. Heat would soon diminish and life become extinct. The co-relation of the lungs and kidneys in excretion is well known and when either one does not do their work well the other tries to aid it.

One of the first places and where we usually find fat tissue is around the kidneys. In many individuals the fat tissue may have become atrophied, leaving only its connective tissue. As fat tissue is a great store house of reserve tissue material, which fluctuates greatly, according to the needs of the body, and in covering organs protects them, it is safe to say that a certain amount of healthy rich fat about the kidneys would be a prophylactic against their becoming diseased, and in case that the kidneys should become irritated or inflamed, it is reasonable to believe that this fat would greatly aid in quickly re-building their tissue and overcoming their disease. On the other hand atrophied fat or tissue of poor quality, that is, watery fat, would be a drone which would sap the kidneys

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of their vitality. Rich oily fat is the healthy fat, rich in protection, rich as a treasure storehouse.

My personal observation in the treatment of a variety of the forms of Bright's disease or inflammation of the kidneys is that the oils injected subcutaneously have acted as an alterative and tissue reconstructive, so as to greatly aid and to produce some very remarkable recoveries from chronic Bright's disease.

THE LIVER AND OTHER VITAL GLANDS AND ORGANS.

Fats and oils are useful to preserve the health of all the organs and tissues of the body. Oils injected subcutaneously are particularly useful in the treatment of diseases of the glandular system and may be used for the treatment of gallstones, catarrh of the bile ducts, and for atrophied conditions, and other diseases of the liver and for some conditions that may exist in other glandular organs. To prevent conditions of senility and diseases of mal-nutrition it is important to keep the liver healthy, for it has much to do with the process of nutrition, growth and repair.

THE CACHEXIA OF CANCER.

Because of the great nutritive influence which subcutaneous injections of oil have upon the system, I believe that with the injections of oil after operation for cancer we will be enabled to prevent its return. The study of cancer for years has only gone to show that it is a nutritive change. "A return to fetal tissue," is an often repeated saying. Most all therapeutic measures of late years have been directed to increasing cell activity of the body and there is no greater means of doing this than by subcutaneous injections of oil.

One of the first cases which I treated when I commenced the practice of medicine was that of an epithelioma of the uterus, in a woman of about forty-five years of age. As I had more time than patients, in my endeavor to cure the woman and meet the confidence which she put in me, I read all the literature relative to the subject of cancer then in the Newberry library, there being some several hundred articles published in various medical journals and textbooks up to that time.

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We tried every method advocated thoroughly. At the time I commenced to treat her the woman was considered too far advanced to operate upon. She lived about a year and finally died from exhaustion. There had been no hemorrhage and the disease had not extended to any vital organ. But she was worn out, thin and emaciated to skin and bones. Had this woman been operated upon and built up with subcutaneous injections of oil, built up to the highest point of energy and vitality, I think that there would have been a renewal of life, which would have prevented the return of the disease. It is well known that cancer usually affects those organs which go out of use, as the uterus and the breast of women after menopause, when the body is declining and other nutritive changes are taking place.

In the Annals of Gynaecology and Paediatry, June, 1901, Vol. 14, No. 9, Dr. A. J. Collins Warren, Professor of Surgery in the Harvard University, says regarding cancer: "In rare cases the regenerative processes, for a time at least, seem to exceed the processes of growth in cancer ,and under these circumstances we observe a tendency to a spontaneous cure. Such a case occurred recently at the Middlesex Hospital, London. A patient over eighty years of age was admitted to the cancer ward, with cancer of the breast, recurring after operation. At the end of a year, during which time there had been no treatment of any kind, the nodules had disappeared, and she was apparently well. This tendency should be taken into account in estimating the value of any drug."

Now, if there are powers of the body which are sufficient in rare cases to overcome cancer, then these powers should be strengthened by building up nutrition to its highest point, and this can only be done with the subcutaneous injections of oil. Particularly is this true when the cachexia or mal-nutrition are prominent, as they generally are, and when they are not it is these exceptional cases which remain well after early operation. It would, therefore, seem that after surgical operation for the removal of cancer, subcutaneous feeding with oils should be useful to overcome the disease by building up nutrition, so that cancer would not return. The following, taken from the January, 1909, publication of "The Doctor," is interesting regarding the curability of cancer:

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"Bainbridge, in the New York Medical Journal, points out that the word curable, as applied to cancer, is, as one may readily appreciate, a relative term. Strictly speaking, we do not cure the cancer—we remove it; and in the vast majority of cases, when it is impossible to remove the cancer, it is impossible to effect a cure of the patient. This is in line with the statement previously made that to-day surgical procedure is the only dependable means of eradication of malignancy. Then, too, there are those who hold that it is impossible to fix a time limit upon recurrence, and who deny that if the disease does not return in three or five years, or any number of years, the case may be pronounced cured. On the other hand, statistics amply justify the so-called three-year limit. However this may be, we know that in a very limited number of cases cancer disappears of itself, with no further manifestations of the disease. This is common in mouse cancer, 30 per cent. of those cases which have been recorded being said to heal spontaneously. In man it would be more than foolish to fold our hands and wait patiently for an epithelioma or a sarcoma to disappear spontaneously because so-called cancer in mice is said to do so in a large proportion of cases. We must remember that it is a serius question whether cancer in the mouse is at all analogous to cancer in man, and we do know that spontaneous cure in the human subject is extremely rare. —The Medical Standard."

In mice which have cancer, experimentally produced, it is apparent that the same conditions of body as to nutrition and age are not present, or the same as they would be if they had come by their cancers in a natural way, or as a natural consequence of some perverted condition of nutrition. These mice evidently were healthy and able to assimilate and nourish their system, so as to overcome the disease, and in such a healthy condition it is likely that man would be equally immune from cancer. It is this healthy condition of the body that I wish to produce, with subcutaneous injections of oil, to prevent the return of cancer after operation, and, perhaps, in some cases to cure cancer. Thus I have treated and cured with subcutaneous injections of oil and without operation two cases of chronic ulcer of the face and one of the throat, which had existed for

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more than a year and which were diagnosed and considered cancers.

IMMUNITY FROM TUBERCULOSIS.

Tuberculosis is a disease of mal-nutrition. This mal-nutrition comes from not eating fats and oils, or if they are eaten they are only partially assimilated. People who eat and assimilate fats and oils in abundance do not have tuberculosis.

To possess stamina, vigor and vitality in its greatest abundance we must possess a body which is capable of producing or generating large quantities of "steam" heat. When an animal dies of starvation it dies from lack of heat, the fuel of the body having been used up, the body is no longer capable of maintaining its proper temperature, to say nothing of that which is used up in energy and movement. Animals that are cold and dying from starvation are revived more from the application of heat than from the administration of food. It is found that when an animal is deprived of food there is always that ultimate loss of heat, and when the body has lost about two-fifths of its weight the loss of heat is very rapid and death ensues.

People who suffer from thinness, mal-nutrition, who are lacking in stamina, vigor and vitality, suffer from loss of heat production, in a way similar to animals which have been experimented upon and the effects of starvation watched. Thus in starving animals, physiologists tell us that at the beginning the variations in the daily temperature become more marked, the daily fluctuations amounting to 5 or 6 F., instead of 1 or 2 F. as in health. It is this variation in temperature which is so characteristic of these individuals who do not assimilate fats and as a consequence are weakened in vitality and subject to colds, who do not ever enjoy vigorous health, are delicate, easily tired and are subject to tuberculosis. In people who do not assimilate fats in sufficient quantities, a cmparative non-digestion as it were, the exhalations from the lungs and skin and mucous membranes are fetid, showing a tendency to decomposition, so characteristic of badly nourished tissues. Another consequence of not taking in sufficient quantities or not assimilating fats (hydro-carbons) is that the amount of carbon dioxid given out and the amount of oxygen taken in

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is diminished, and as a consequence there is less heat, stamina, vigor and vitality and lowered resistance to disease. Those then who are suffering from starvation of their tissues, and this applies to many, to a greater or less degree, most of whom are thin, but many of whom possess a watery, poorly nourished adipose, are unable to generate sufficient energy and heat, because the oxygen which we breathe in must act upon the carbon in our blood, and if this carbon cannot be taken up readily from the diet in the form of fat, it must be drawn from the tissues which in the above instances are already bankrupt. To overcome this condition is to build up an immunity from tuberculosis and to produce constitution, stamina and vigor.

It does not require the aid of the microscope to determine those who are subject to tuberculosis. The first predisposing symptoms of tuberculosis are due to faulty assimilation and the non-use of fats, which brings about lessened heat production and lowered vitality. Then we have dainty eaters who abhor fats and as a consequence all of these people are poorly nourished. The Hippocratic face, or countenance of the tuberculous, from Hippocrates' description, has followed largely through the literature on this disease in the description of its symptomatology. It is the face and symptoms of those who do not live upon a proper diet, the result of not eating and not assimilating fat. You will find it an accurate guide. "A sharp nose, hollow eyes, temples depressed, the ears cold and contracted, the skin above forehead hard, stretched and dry, all the face of a greenish color or black or livid, are mortal signs." There are also a few poorly nourished fat people who are subject to tuberculosis. They are those whose fat is watery and made up from eating starches and sugars. In fact any person who does not assimilate fat is subject to tuberculosis. If these people who are suffering from mal-nutrition were treated with subcutaneous injections of oil and built up to rugged health and their digestions trained so that they would assimilate fats and oils, then they would be immune from tuberculosis. If all appreciated these truths then there would be an end to the disease. Tuberculosis would no longer exist among us.

Subcutaneous injections of oil and the establishing of a

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habit of digesting fats cure consumption. You will notice that I say cure consumption and not arrest the disease. When the lesions are healed and the habit of digesting fats is established the disease is cured and the consumptive habit cured. By the consumptive habit I mean the habit of not assimilating fats.

That the subcutaneous injections of oil do cure consumption, which remains a permanent cure when the habit of digesting fats is established, it is a positive and patent fact, as I have proven in seventy-three cases over a period of several years.

OTHER THERAPEUTIC INDICATIONS FOR OIL INJECTIONS.

To renew life there are often many diseases which have to be relieved and cured. Nutrition if raised to its highest point will put the body in such condition that it will resist most diseases and aid it to cure them. Oil injected into the tissues enters the blood in the same form as if it were introduced into the body through the complicated apparatus of digestion, except that larger quantities may be used. Few poorly nourished people digest oil. With poorly nourished people there is always a comparative non-digestion of fats and oils; therefore, nutrition of the body can best be built up with oil inejctions, and by this means I have cured many cases with diseases considered incurable. Oil injected subcutaneously will be found useful in the treatment of many nervous diseases, such as chorea, brain exhaustion and neurasthenia, some forms of insanity, as paresis, and should be useful in the treatment of epilepsy, as here there seems to be an evacuation of the fatty substance of nerve cells. In the treatment of headaches and neuralgia I have experienced beneficial results. A case of locomotor ataxia was benefited from oil injections.

Cod liver oil was first brought to the attention of the medical profession for use in the treatment of rheumatism. Oil injections should, therefore, be of great benefit in the treatment of rheumatism. I have had most remarkable results and cured a number of cases of catarrh of the intestine, or collitis, with subcutaneous injections of oil. A number of supposed incurable skin diseases have been cured, one being a severe ichthyosis over the entire back and the other being a

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chronic acne. A case of lupus responded quickly to treatment. The nutrition and cell activity produced by the injections of oil should aid the body to overcome many other chronic skin diseases, such as eczema, and I would suggest that those who are in a position to do so should try the same in the treatment of leprosy. The skin of all patients treated with subcutaneous injections of oil became very healthy, a fact which is always very noticeable. A case of very malignant syphlis was treated with good results. This patient could not take mercury. The injections of oil are of great value in tertiary syphlis, and to those who have recovered from the disease but are anemic. For all forms of anemia, and particularly pernicious anemia, there is nothing of so much value as the oil injections. In fact it would seem that no disease that flesh is heir to could not be benefited by improving nutrition and stimulating cell activity and repair with subcutaneous injections of oil.

When tired nature becomes exhausted she calls for sleep. She calls for sleep that she may replenish the fires which have been consuming and exhausting the fuel of the body. The muscles relax and become inactive, and all functions are at their lowest ebb. The amount of carbon dioxid excreted by the lungs is lessened and in place of making power the carbon foods are saved by the body in its fat tissues and in the fat between muscular fibres. The circulating flow of nutrition (the blood) goes on and replenishes the fuel to the tired muscles, the organs and nervous system, and when this has been done we awaken refreshed. Injections of oil do often lessen the required amount of sleep and refreshen the system by supplying the nutrition in a form readily acceptable by the blood. I have frequently treated patients who were under long severe mental strain, who were enabled by the injections of oils to do so. One patient worked forty-eight hours at a stretch without sleep and did not experience any ill effects from the prolonged strain. He was under treatment with injections of oil and says that he would not have been able to have withstood such strain without the oil injections. This man is a physician and believes in the injections of oil for the renewal of life. We all love to live and we wish to live as long and useful lives as is compatable with health. To prolong both life and health one

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of the great essentials I believe is to eat a good supply of fatty food continuously and thereby establish and keep up the habit of assimilating fats and oils. As age advances it is evident that fatty foods are not assimilated as well or they would take the place of the fat tissue absorbed from the body. In old age there is a comparative non-assimilation of fats. The conditions of advancing age, many other conditions and diseases, some of which we have mentioned, should, therefore, be met: first, by subcutaneous injections of oil; second, we should re-establish the habit of assimilating oils from the intestine.

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ALCOHOL AS A DIET OR AS A MEDICINE.

BY FREDERIC CLIFF, M. D., STATE MENTAL HOSPITAL, PROVO, UTAH.

The mal-effects of alcohol, good, bad or indifferent, depends upon varying factors.

There is a tendency during the "prohibition rush" of to-day to ascribe all of its evil effects to the mere taking, without regard to the physical condition of the recipient or the time of taking, or its quantum. We, as physicians, know the good effects of iron when taken

First, In a suitable case.

Second, In a suitable preparation or menstrum.

Third, In a suitable dose.

Fourth, At a suitable time.

The same law holds good in the case of strychnine, ergot—and in fact in all drugs, whether poisonous or otherwise. So, too, even beef, potatoes, beans and other food material are subject to the same law. All can and do become poisons and dangerous to the individaul who takes, eats or drinks of them without regard to

First, Conditions of health at the moment.

Second, Methods of preparation or cooking.

Third, Quantum.

Fourth, Time when taken.

The average working Englishman—who eats roast beef, potatoes and two or three other vegetables with a fair quantity of bread and but little in the way of condiments—washes down his food with what seems to him to be the staff of life—beer—it may be home brewed of Basses' trebble X.

The German eats, without thought of to-morrow, of the solid staples of life—highly seasoned with garlic and other condiments and drinks his lager beer, oftentimes coupled with the light wines of his beloved "Rhine."

Frenchman eats sparingly of a great variety of well cooked and delicately flavored "tid-bits" and washes them down with selected vintage wines, from which the stronger and grossest have been weeded out and exported to the foreigner—whose taste has been vitiated by the drinking of undiluted alcohol.

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The American, from the mechanic to the merchant, eats a full and as a rule overcooked meal of indigestables in from seven and one-third to seven and one-half minutes, and after pouring down a cup or two of hot tea or coffee, rushes to the nearest bar for a necessary digestive which usually assumes the shape of an undiluted whiskey,—rushed from the distillery a few hours ahead in order to make room in the vats for more of the "unaged" poison.

These are sample types of moderate drinkers of alcohol. It is necessary to enlarge as to the results which naturally follow its imbition in the cases stated? I think not.

The question of alcohol as a diet has been solved by each nation for itself. It is but seldom that the American uses alcohol as part of his diet, and it is for this reason that the wave of Prohibition has spread over these United States. In all countries there are many who day in and day out imbibe alcohol in its varied forms from early morn until another dawn. Such lose all appetite for food—they become a curse to the community and their friends, and sooner or later find their way to a premature, and perchance, "Potter's" grave,—or, become inmates of reformatories, prisons or the "mad-house."

Such results cannot be charged to alcohol as a diet or as a medicine. I shall not in this paper attempt to argue the question from the viewpoint of the number of calorics consumed or manufactured by the use or non-use of alcoholics. Others will doubtless present the variuos theories as to the actual food or heat value of alcohol. I beg the question and submit that individuals who, as in England, Germany or France, exercise the God-given power of controlling their appetites, whether for solid or bibulous food, are in no way injured by the use of alcohol, but on the contrary, their digestive organs as compared to those who drink tea or coffee are the better for the SANE ADMIXTURE in their diets of suitable foods and drinks,—and when called for, a dietitic or medicinal quantity of iron, strychnine, alcohol salts or other substances, which if taken to excess would be poisonous.

The rattlesnake—the sparrow—the typhoid germ exist for purposes which we perhaps do not as yet understand—they serve their end. Within comparatively recent years we have

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learnt and are still learning that strychnine, digitalis and the thousand and one other elements of nature have their use and purpose. We have learnt that the human system requires a certain amount of almost every known element. Must we say that alcohol is the only element that is not required? Some of those whose opinions we respect, but are not always bound to accept, argue that it is. Until there is a practical concensus of opinion, let us prohibit the man who drinks to excess or craves it at unreasonable hours. The good old "Book" tells us that God compels no man to be good, but HE does prohibit HEAVEN to those who won't be good.

Establish the principle that if taken without food, alcohol will sooner or later destroy the digestive and other organs and thereby lead the imbiber to the grave or the asylum.

Establish the fact that if taken as other poisons are taken it is of value. Teach the real facts as to alcohol, and not the absurd nonsense that we so often hear.

Let Prohibition begin with the individual. Then it will be a God's send to untold generations, for it will be a prohibition that will PROHIBIT.

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THE SIMULATED DERANGEMENT OF MIND OF KING DAVID.*

BY DR. H. KORNFELD, PRIVY MEDICAL COUNCILLOR.
Honorary member Medico-Legal Society. Grotkau, Silesia.

In the old biblical canonical Scriptures there can be found a simple example of simulation of derangement of the mind by the following statement in I. Samuel, Chapter XXI.:

Verse 10—"And David fled and came to Achis, King of Seth.

Verse 11—And the servants of Achis said unto him: Is not this David, the King of the land? Did they not sing one another of him in dances: "Saul has slain his thousands, and David his ten of thousands?

Verse 12—And David laid up these words in his heart and was sore afraid of Achis.

Verse 13—And he changed his behaviour before them and feigned himself mad and scribbled on the doors of the gates and let his spittle fall down upon his beard.

Verse 14—And Achis said: Lo, ye see a madman; wherefore then have you brought him to me?

Verse 15—Have I not fools enough around me that ye have brought this fellow to play the mad man in my presence? Shall this fellow come into my house?

It is striking that this conception of the derangement of the mind of the King is contradictory to that usually assumed among the Orientals. As is well known, those mentally deranged are looked upon as being unassailable, as being obsessed by superior power, outside of the pale of ordinary life, and its rights and duties. Therefore, is it conceivable that Achis should have based his diagnosis of derangement of the mind upon his sole observation? But it can be easily explained why the King ordered at once the discharge of David. For Achis saw through the simulation and felt pity with the fugitive hero, who had recourse to such means to save his life.

The author reserves the right to prove this more *in extenso.*

(Psychiatric Neurological Weekly, edited by Chief Physician Dr. John Breslar, Lublimitz, Silesia.)

*Read at the November meeting Medico-Legal Society, 1908.

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MEDICAL EXPERT TESTIMONY.*

BY U. O. B. WINGATE, M. D., MILWAUKEE, WIS

Professor Nervous and Mental Diseases, Wisconsin College of Physicians and Surgeons.

Having been called upon to give medical expert opinions in the courts more or less for the past twenty years, I have naturally given the question much thought, and have arrived at pretty definite conclusions. It has become somewhat the fashion for lawyers and judges to cast most objectionable reflections upon the medical expert. There are some notable exceptions to this position by certain members of the bar and bench. The accusations and criticisms are in my judgment most unjust. That there are defects in the present conditions no one will deny, but the trouble comes from the antiquated and faulty system in vogue in the courts and not from the medical expert, with few exceptions. The time has arrived when, with the present knowledge in medical science, the medical expert should no more be considered a witness to be placed on the stand and cross-examined after his qualifications have been accepted by the court, than a judge should be so considered when called upon to interpret a point of law.

The court and jury must obtain certain information from medical science in order to arrive at just conclusions, and in no other way can they obtain such information than from the medical expert. The court decides upon the qualifications of the expert and he is put upon the stand and subjected to a cross-examination intended to break down the opinion which the court has decided he is competent to give. This makes the expert appear ridiculous and renders his testimony valueless for the court and jury. Surely this is not the fault of the medical expert, but it is the fault of the system, of the present state of the law as administered. Time and again have I been obliged to answer a hypothetical question framed by the counsel of one side, then the counsel for the other side frames another hypothetical question which I am obliged to answer in

*Read before the Medico-Legal Society, November meeting, 1908

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such a way as to practically contradict my former answer in its effect on the jury.

Such evidence is of no possible use for the court and jury. An expert is sworn to tell the truth, the whole truth, and nothing but the truth. When he comes to be cross-examined he is not permitted to tell the whole truth. If he attempts to explain his posiion in order to make his testimony clear he is brought up with a sharp turn, and informed that he is not to argue the case, and must answer the questions by yes and no, something he cannot do and state the information he possesses. I am convinced that a lawyer skilled in cross-examination can so frame his questions that an expert is obliged to give information entirely foreign from what he desires. At least, the lawyer can so put his questions that the answers the expert is obliged to give will make an impression on the court and jury entirely different from what the expert intended. This is not justice. The expert is placed in a false position, and it is no fault of his. There are many other features of the present system equally objectionable and should be corrected, and it is gross injustice to charge the expert with giving testimony that is worse than useless.

But how remedy the evil? The medical profession is now better organized in this country than ever before. Let each State medical society select a list of its members who are known to be competent to give expert opinions, this list to be revised each year. From this list let the various judges appoint such a number of experts as may be desired in a given case, these men to be paid by the State or county for their services. They should have the privilege and right to examine the case and make a study of it to their full satisfaction, consult together, make experiments if necessary; in fact, give the case the full benefit of modern medical science; then render their opinion either verbally or in writing, as may be desired, this opinion to be for the sole use of the court and jury. They should not be subjected to any cross-examination. These experts may not always agree. When the members of the United States Supreme Court disagree, composed as it is of men of the highest attainments, it would not be surprising if medical experts sometimes disagree. In case of such disagreement a majority and a minority report can be submitted, and

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it will be for the court and jury to decide which they will accept. This may not deprive either side from putting experts on the stand and subjecting them to a cross-examination if they so desire, but those experts appointed by the court and who have rendered an opinion to the court are not to be put upon the stand for cross-examination; but such a system will give to the court and jury such information as they desire, information carefully considered and prepared, free from partisanship, for such experts are to belong to no side, but are to act solely for the court and jury, and in the interest of justice, giving the best that medical science can furnish.

I am convinced that such a system would serve the ends of justice, and establish a relationship between law and medicine so far as medical expert opinions are concerned that would redound to the credit to which both are entitled.

The law submitted by Chief Justice Emery seems to meet the existing exigency. If the court in each case, on motion of either party before the trial, appoints and designates clever competent expert alienists to try the question of sanity or insanity of the accused, and sworn to be governed by the facts, as found and disclosed before them, not as selected by either side, and paid by the State, and the amount of their compensation to be fixed by the judge after the close of the trial, as seems to be the spirit of the bill now under consideration by the select committee of the Medico-Legal Society, it would restore public confidence in the medical witness, and at once meet the evil which now exists, and put an end to the public belief that medical evidence can be made to meet the views and wishes of those who have under the present system brought reproach and disgrace on the medical profession by charging enormous fees in cases of wealthy persons accused of crime, and the action of this committee will be calculated to restore public confidence.

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MEDICAL EXPERT TESTIMONY.*

BY WILLIAM FRANCIS DREWRY, M. D., PETERSBURG, VIRGINIA.

Superintendent Central State Hospital for the Insane, Virginia. Ex-President Medical Society of Virginia.

Until the difference of opinion as to what constitutes insanity, as viewed by the medical and legal profession, has been brought closer together, there will continue to be debate, without satisfactory conclusion, as to the province of the insanity expert in medico-legal cases. While the "battle wages," the public stands aghast at the "ingenuity" of lawyers, the "scientific evidence" of the alienist-experts, and the increasing number of criminals who "get off" on the "insanity plea." The lawyer, on the one hand, gets roundly abused for his shrewdness," and the medical witness, on the other hand, is criticised for his "expert opinion" of the client's "mental disease" and consequent irresponsibility.

It has been my lot, not one of my choosing, either, to have been an expert witness in quite a number of murder cases in my State. Frequently I have been "retained," so to speak, by one side and, upon examination of the prisoner and after hearing all the testimony on both sides, gave opinions favorable to the other side. I have always adhered to the right to withhold my opinion—positively declining to express an opinion—until I have had all the facts bearing on the case. The hypothetical question, as usually framed and put, has frequently been a bar to a correct medical opinion and a source of embarrassment to the conscientious witness.

It is time that the medical and legal professions and the courts in this country were taking an advanced position in the matter of expert testimony, for it cannot be controverted that in many places it is in a bad way, and is not respected as it should be. This is largely due to the inefficiency and the questionable character of physicians too often "employed" and the prevalent system of "proving insanity" rather than ascertaining the real mental condition. We are nearly half a century behind some other countries in this department of medical jurisprudence.

*Read at the meeting of the Medico-Legal Society.

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But, gentlemen, I must have a word to say in defense of the better and higher view taken by my profession.

The impression seems to be generally prevalent that all insanity experts are "for hire" to the "highest bidder." This is a gross injustice to those alienists who are capable and honest. That there are dishonest medical witnesses, as there are shyster lawyers and corrupt jurors, no one will deny; but should the entire company be judged by one unprincipled fellow? People who know absolutely nothing about insanity, or the intricate workings of man's mind, normal or abnormal, are ready to join in the wholesale criticism of the opinion of any and all experts. Often the opinion of a competent alienist is essential to truth and justice. Unfortunately we sometimes see in the witness chair unscrupulous fellows, posing as experts—men whose only purpose is to get a fee or to aid the lawyer in "winning" the case for "their side," regardless of the scientific truth, or else men whose lack of training or experience unqualifies them for the important role which they assume.

Every precaution should be exercised to prevent the insanity plea from being abused and thereby giving the real criminal undeserved protection; nevertheless, it is entirely in line of modern progress in forensic medicine to have everyone charged with crime, in which there is doubt about his mental condition, examined by fair and competent experts.

This matter is of such vital importance that our laws and practices should be amended so as to put it in the power of the court to call the experts, instead of having them called by the defense, or the prosecution. The witnesses thus called should, of course, be subjected to cross-examination by both sides in the case. This would at least prevent the possibility of the expert being a "partisan," or an advocate, which he should never be. Another plan, a modification of the above, which appeals to me is to have the court appoint a commission of experts, whose duty it would be to examine and study the case in question, and report its opinion to the court. The report should be open to both the prosecution and the defense, and, if desired, used in evidence. A correct solution would in this way usually be quickly reached. In at least two or three States it has been recommended that the organized

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medical associations furnish the courts a list of names of members of the profession from which an expert or experts may be selected as required. This is a good idea. The expert should always be paid out of the public treasury, and his compensation should be a liberal one.

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LONGEVITY, AND THE RELATION OF AGE TO USEFUL WORK.

BY HON. SMITH ELY, EX-MAYOR OF NEW YORK.

When the Medico-Legal Journal asks for my views concerning longevity and the best way to reach old age, I suppose they expect some suggestions that will aid those who are making an intelligent effort to prolong their lives, but I regret to say that I cannot furnish them with an example which it would be wise to imitate.

Mark Twain says 'tis folly for a man to attempt to reach old age by another man's road. If any man should attempt to reach old age by the path which led to my eighty-fifth year, I fear he would find it perilous, if not fatal.

My parents, like many others, thought that sweets of any sort were unwholesome for children, and I only enjoyed such things in my childhood within strict limitations. Consequently when I attained the age of sixteen and found employment down town, with permission to dine as I pleased, I made up for lost time. My regular meal for many months consisted of three or four pieces of baker's pie. A year or two later I discovered a restaurant in Pine street where they served very corpulent apple dumpling at a reasonable price, and I confined my mid-day meal to them for a year or two. At all periods of my life the dessert has almost always been the better part of the meal. I resided for more than twenty years in the neighborhood of the Fifth Avenue Hotel, and during all that period it was my regular habit, on my way home from clubs and entertainments, to stop at Maillard's and have a meringue glace, followed by a cup of hot chocolate with whipped cream. When I removed to 57th street, twelve or fifteen years ago, I made a tour of all the confectioners and restaurants between 42d street and Central Park, and I found a French confectioner where they served ice cream and hot chocolate to suit me, and I transferred my patronage to it, and I think I visited it on an average of four or five nights each week for a dozen years. It has been, and still is, my lifelong habit to place a lump of confectionery of some sort in my mouth upon retiring for the night. This I never omit.

I don't know that this diet of sweets has benefitted my dis-

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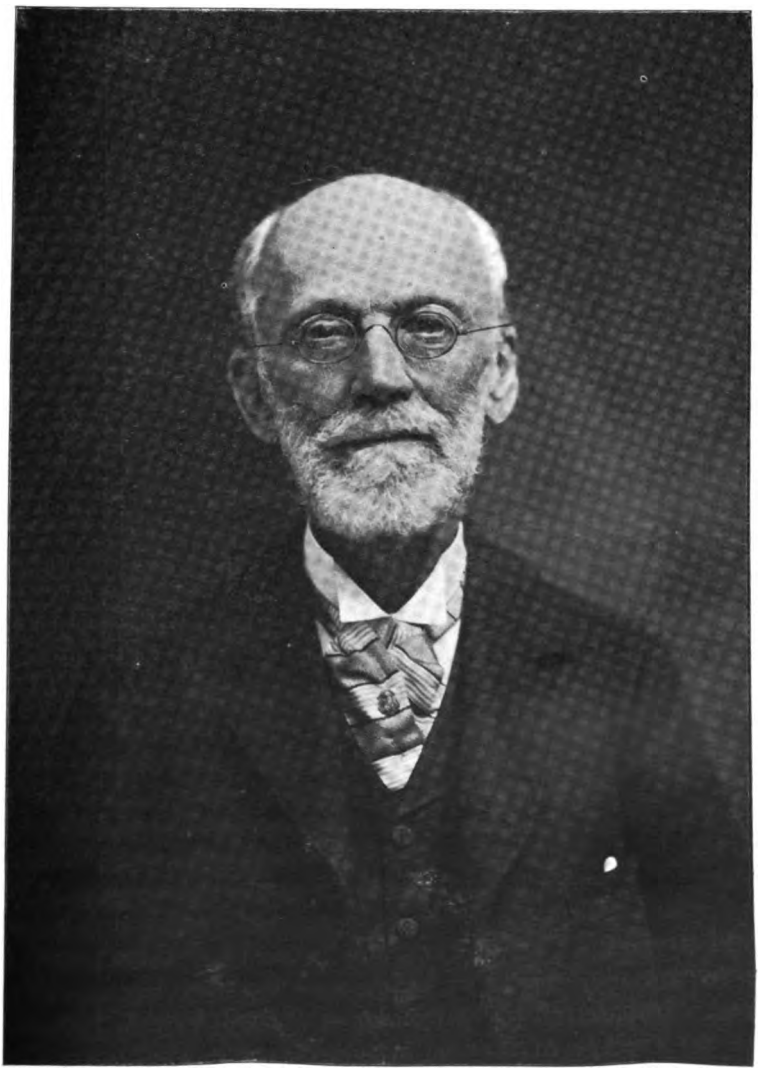

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position, but it has given me strength to undergo the nervous strain and excitement of a political career in Albany, Washington and New York that would have shortened the existence of an ordinary beef eater.

My old congressional colleague, Abram S. Hewitt, gave up ea ting meat when about eighty. He told me that it diminished his combativeness and improved his amiability. His father-in-law, Peter Cooper, when ninety years of age, told me that his regular diet consisted of milk and English porter.

I have personally known but three persons who lived more than a century. One of these was a lady relative who was born and trained in New York City, who lived to be 102 years and two months old, and retained her faculties until the end, although she lived somewhat luxuriously. Another was a farmer's wife, who died three or four years ago, and who retained until the end her faculties and all the habits of her childhood. She rarely ate fresh meat, but lived healthfully on salt pork and vegetable diet of her early life. The third of my old acquaintances was the somewhat celebrated Captain Lahrbush, who lived to be 109. A year or two before he died, I met him at luncheon at the home of Thurlow Weed, and at that time he appeared to be strong and possessed of a good appetite. He took luncheon with Mr. Weed regularly on Sundays. He ridiculed the ordinary laws of health and drank laudanum as other men drink brandy or sherry.

My first employer, Isaac T. Smith, Consul General of Siam, died recently at the age of 94. I dined with him shortly before his death, and his vigor of mind and body seemed unimpaired.

The famous Dr. Hahnemann, who originated homeopathy, married at the age of 81 and at 82 his spouse presented him with twins. At the age of 91 he published one of his most important works.

I do not remember ever having denied myself any thing to eat or drink that I really desired, and I have never left the table without fully satisfying my appetite, but I have always been noticeable for a strange peculiarity which is that I masticate my food thoroughly and properly. I never swallow strawberry seeds or grains of boiled rice without having crushed

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them with my teeth. This latter habit I recommend to all those who

"Well satisfied with bliss of mortal birth,
Pray for an immortality on earth."

Recently my aunt, Mrs. Kitchell, died in Brooklyn, aged 95, in possession of all her faculties. She continued to be an occasional contributor to the press until she was 90, and accepted social invitations until a few weeks prior to her decease.

About a year ago three cousins of mine, who were sisters, died within a few weeks of one another, the youngest at the age of 85. The eldest, Mrs. Susan Thompson Price, of Dosoris, L. I., was 96. She never had a headache or any serious illness. She was the widow of the builder of the old reservoir which stood on Fifth avenue at 42d street, which was recently replaced by the library.

I have already alluded to my inordinate appetite for sweet things. This inclination in one instance was abnormally aroused. Daniel Dod, a civil engineer, started the first steamboat for traffic on New York Bay about a century ago. The enterprise proved unprofitable, and his widow started a primary school in Columbia street, which I attended before I was five years of age. She was sometimes assisted by her daughter Mary, who taught me to spell in two syllables. She was a very pretty girl, about 14 years old, with ringlets and red cheeks, and I was greatly enamored. In my childish imagination I dreamt of cooking her in a great kettle, transforming her into a sort of pot roast and eating her with currant jelly. I maintained a correspondence with her until the time of her death, which occurred a few months ago, at Princeton, N. J., at the age of 93. Her sister Susan was the wife of David Brown, of the famous shipbuilding firm of Brown & Bell, and she reached the age of 96.

These ladies all passed their long lives quietly and usefully, finding their happiness in their own homes, and not craving the stimulation of whiskey cocktails or the baneful excitement of the race track and the gaming table.

Many of your readers will remember the personal attractiveness of Mrs. Ulysses S. Grant and Mrs. Jefferson Davis.

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These two ladies were warm friends and mutual admirers. Mrs. Davis was a grand dame who retained her faculties in all their brilliancy until the end of her life. I remember that during the South African War she expressed to me her great admiration for the Boers and said that her heart went out to those plain farmers and herdsmen who were fighting in their shirt sleeves so heroically, and her gratification that they were able to give the colossal military power of England a stunning and stupefying blow.

A lady of society, when on a charitable mission in the French quarter, found in a Bleecker street tenement an octogenarian who, long years ago, was premiere danseuse in a spectacular ballet. Her only companion was a gray parrot of about her own age. In early life the dancer married the Count St. Jaques and quit the stage. The charitable lady made the poor creature presentable and gave an entertainment at her own house for the dancer's benefit, which netted a substantial sum. I left the house after the reception in company with Henry Bergh, the protector of old and infirm animals, who had talked with the old lady. He said the contrast between this poor woman and the fascinating creature whom he had seen pirouetting on the stage of the Bowery Theatre in his young days was very painful, and he added, "Don't you think that when a woman has lost every vestige of attractiveness she had better die?"

An ancient colored woman who lived in my part of New Jersey, when asked by the census taker how old she was, replied: "I don't remember much about being born, but if you reckon according to the fun I've had I must be about 200." Perhaps the old woman's estimate of life is the proper one. It should be measured by what we enjoy, like the sun dial that notes the bright hours only.

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JUDICIAL HISTORY OF THE SUPREME COURT OF THE STATE OF WYOMING.

BY CLARK BELL, ESQ., LL. D.

The Constitution of Wyoming makes the following provisions respecting the judiciary of the State as embraced in Article V. of that instrument:

Section 1. The judicial power of the State shall be vested in the senate, sitting as a court of impeachment, in a Supreme Court, District Courts, justices of the peace, courts of arbitration and such courts as the legislature may, by general law, establish for incorporated cities or incorporated towns.

Sec. 2. The Supreme Court shall have general appellate jurisdiction, co-extensive with the States, in both civil and criminal causes, and shall have a general superintending control over all inferior courts, under such rules and regulations as may be prescribed by law.

In re Boulter, 5 Wyo, 270.

State vs. Crocker, 5 Wyo. 395.

Sec. 3. The Supreme Court shall have original jurisdiction in quo warranto and mandamus as to all State officers, and in habeas corpus. The Supreme Court shall also have power to issue writs of mandamus, review, prohibition, habeas corpus, certiorari, and other writs necessary and proper to the complete exercise of its appellate and revisory jurisdiction. Each of the judges shall have power to issue writs of habeas corpus to any part of the State upon petition by or on behalf of a person held in actual custody, and may make such writs returnable before himself or before the Supreme Court, or before any district court of the State or any judge thereof.

State ex rel. School District No. 1, Converse Co. vs. Clay et al., 3 Wyo. 393.

In re Fourth Judicial District, 4 Wyo. 133.

State ex rel Jeffrey vs. Burdick, 3 Wyo. 588.

State ex rel Bennett vs. Barber et al., 4 Wyo. 56.

Dobson vs. Westheimer, 5 Wyo. 36.

State vs. Crocker, 5 Wyo. 395.

Sec. 4. The Supreme Court of the State shall consist of three justices who shall be elected by the qualified electors of the State at a general State election at the times and places at

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which State officers are elected; and their term of office shall be eight (8) years, commencing from and after the first Monday in January next succeeding their election; and the justices elected at the first election after this constitution shall go into effect shall, at their first meeting provided by law, so classify themselves by lot that one of them shall go out of office at the end of four (4) years, and one at the end of six (6) years, and one at the end of eight (8) years from the commencement of their term, and an entry of such classification shall be made in the record of the court and signed by them, and a duplicate thereof shall be filed in the office of the Secretary of State. The justice having the shortest term to serve and not holding his office by appointment or election to fill a vacancy, shall be the chief justice and shall preside at all terms of the Supreme Court, and, in case of his absence, the justice having in like manner the next shortest term to serve, shall preside in his stead. If a vacancy occur in the office of a justice of the Supreme Court, the Governor shall appoint a person to hold he office until the election and qualification of a person to fill the unexpired term occasioned by such vocancy, which election shall take place at the next succeeding general election. The first election of the justices shall be at the first general election after this constitution shall go into effect.

In re Moore, 4 Wyo. 109.

Sec. 5. A majority of the justices of the Supreme Court shall be necessary to constitute a quorum for the transaction of business.

Sec. 6. In case a judge of the Supreme Court shall be in any way interested in a cause brought before such court the remaining judges of said court shall call one of the district judges to sit with them on the hearing of said cause.

Sec. 7. At least two terms of the Supreme Court shall be held annually at the seat of government at such times as may be provided by law.

Sec. 8. No person shall be eligible to the office of justice of the Supreme court unless he be learned in the law, have been in actual practice at least nine (9) years, or whose service on the bench of any court of record, when added to the time he may have practiced law, shall be equal to nine (9) years, be at least thirty years of age and a citizen of the United States, nor

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unless he shall have resided in this State or territory at least three years.

Sec. 9. There shall be a clerk of the Supreme Court who shall be appointed by the justices of said court and shall hold his office during their pleasure, and whose duties and emoluments shall be as provided by law.

Sec. 10. The District Court shall have original jurisdiction of all causes at law and in equity and in all criminal cases, of all matters of probate and insolvency and of such special cases and proceedings as are not otherwise provided for. The District Court shall also have original jurisdiction in all cases and all proceedings in which jurisdiction shall not have been by law vested exclusively in some other court; and said court shall have the power of naturalization and to issue papers therefor. They shall have such appellate jurisdiction in cases arising in justices' and other inferior courts in their respective counties as may be prescribed by law. Said courts and their judges shall have power to issue writs of mandamus, quo warranto, review, certiorari, prohibition, injunction and writs of habeas corpus, on petition by or in behalf of any person in actual custody in their respective districts.

State ex rel Bennett vs. Barber, 4 Wyo. 61.

Ex parte Bergman, 3 Wyo. 396.

Sec. 11. The judges of the District Courts may hold courts for each other and shall do so when required by law.

In re Fourth Judicial District, 4 Wyo. 149.

Sec. 12. No person shall be eligible to the office of judge of the District Court unless he be learned in the law, be at least twenty-eight years of age and a citizen of the United States, nor unless he shall have resided in the State or Territory of Wyoming at least two years next preceding his election.

Sec. 13. There shall be a clerk of the District Court in each organized county in which a court is holden, who shall be elected, or, in case of vacancy, appointed in such manner and with such duties and compensation as may be prescribed by law.

Sec. 14. The legislature shall provide by law for the appointment by the several district courts of one or more district court commissioners (who shall be persons learned in the law) in each organized county in which a district court is holden,

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such commissioners shall have authority to perform such chamber business in the absence of the district judge from the county or upon his written statemnt filed with he papers, that it is improper for him to act, as may be prescribed by law, to take depositions and perform such other duties, and receive such compensation as shall be prescribed by law.

Sec. 15. The style of all process shall be "The State of Wyoming." All prosecutions shall be carried on in the name and by the authority of the State of Wyoming, and conclude "against the peace and dignity of the State of Wyoming."

Ex parte Bergman, 3 Wyo. 396.

Sec. 16. No duties shall be imposed by law upon the Supreme Court or any judge thereof, except such as are judicial, nor shall any of the judges thereof exercise any power of appointment except as herein provided.

State ex rel Bennett vs. Barber, 4. Wyo. 67.

Sec. 17. The judges of he Supreme and District courts shall receive such compensation for their services as may be prescribed by law, which compensation shall not be increased or diminished during the term for which a judge shall have been elected, and the salary of a judge of the Supreme or District Court shall be as may be prescribed by law.

Board of Commissioners vs. Burnes, 3 Wyo. 691.

Sec. 18. Until otherwise provided by law, the State sahll the decisions of the District courts to the Supreme courts under such regulations as may be prescribed by law.

Sec. 19. Until otherwise provided by law, the State shall be divided into three judicial districts, in each of which there shall be elected at general elections, by the electors thereof, one judge of the District Court therein, whose term shall be six (6) years from the first Monday in January succeeding his election and until his successor is duly qualified.

In re Fourth Judicial District, 4 Wyo. 144.

Sec. 20. Until otherwise provided by law, said judicial districts shall be constituted as follows:

District number one shall consist of the counties of Laramie, Converse and Crook.

District number two shall consist of the counties of Albany, Johnson and Sheridan.

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District number three shall consist of the counties of Carbon, Sweetwater, Unita and Fremont.

Sec. 21. The legislature may from time to time increase the number of said judicial districts and the judges thereof, but such increase or change in the boundaries of the district shall not work the removal of any judge from his office during the term for which he may have been elected or appointed; provided the number of districts and district judges shall not exceed four until the taxable valuation of property in the State shall exceed one hundred million dollars ($100,000,000).

Sec. 22. The legislature shall provide by law for the election of justices of the peace in each organized county within the State. But the number of said justices to be elected in each organized county shall be limited by law to such number as shall be necessary for the proper administration of justice. The justices of the peace herein provided for shall have concurrent jurisdiction with the District Court in all civil actions where the amount in controversy, exclusive of costs, does not exceed two hundred dollars, and they shall have such jurisdiction to hear and determine cases of misdemeanor as may be provided by law, but in no case shall said justices of the peace have jurisdiction when the boundaries of or title to real estate shall come into question.

In re Fourth Judicial District, 4 Wyo. 144-149.

Crain vs. Bode, 5 Wyo.. 260.

Sec. 23. Appeals shall lie from the final decisions of justices of the peace and police magistrates in such cases and pursuant to such regulations as may be prescribed by law.

Clendenning vs. Guise, 55 Pac. 447.

Sec. 24. The time of holding courts in the several counties of a district shall be prescribed by law, and the legislature shall make provisions for attaching unorganized counties or territory to organized counties for judicial purposes.

Sec. 25. No judge of the Supreme or District court shall act as attorney or counsellor at law.

Sec. 26. Until the legislature shall provide by law for fixing the terms of courts, the judges of the Supreme Court and District courts shall fix the terms thereof.

Sec. 27. No judge of the Supreme or District Court shall be elected or appointed to any other than judicial offices or be

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eligible thereto during the term for which he was elected or appointed such judge.

Sec. 28. Appeals from decisions of compulsory boards of arbitration shall be allowed to the Supreme Court of the State, and the manner of taking such appeals shall be prescribed by law.

ORGANIZATION OF THE SUPREME COURT OF THE STATE.

The period of Statehood commenced, as to the judiciary of the State, under this constitution, on the 11th day of October, 1900, when the Supreme Court of the State was organized.

The following are the names of the judges of the Supreme Court of the State of Wyoming from the date of the organization of said court under Statehood (Oct. 11, 1890) up to the present time (Dec. 26, 1908):

Willis Van Devanter, Chief Justice from Oct. 11, 1890, to Oct. 15, 1890; Herman V. S. Groesbeck, Associate Justice from Oct. 11, 1890, to Oct. 15, 1890; Chief Justice from Oct. 15, 1890, to Jan. 4, 1897. Ashbury B. Conaway, Associate Justice from Oct. 11, 1890, to Jan. 4, 1897; Chief Justice from Jan. 4, 1897, to Dec. 8, 1897. Homer Merrill, Associate Justice from Oct. 15, 1890, to an. 2, 1893. Gibson Calrk, Associate Justice from Sept. 22, 1894, to Jan. 7, 1895. Samuel T. Corn, Associate Justice from Sept. 22, 1894, to an. 7, 1895; again became Associate Justice an. 4, 1897, and remained an Associate Justice until Jan. 5, 1903, when he became Chief ustice and remained so until Jan. 2, 1905. Charles N. Potter, Associate Justice from Jan. 7, 1895, to Dec. 8, 1897; Chief Justice from Dec. 8, 1897, to Jan. 5, 1903; again Associate Justice from an. 5, 1903, to April 9, 1905; Chief Justice from April 9, 1905, to present time. esse Knight, Associate Justice from Dec. 18, 1897, to an. 2, 1905; Chief Justice from Jan. 2, 1905, to April 9, 1905. Cyrus Beard, Associate Justice from Jan. 2, 1905, to present time. Josiah A. Van Orsdel, Associate Justice from April 15, 1905, to an. 31, 1906. Richard H. Scott, Associate Justice from Feb. 24, 1906, to present time.

(To be continued.)

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SUPREME COURT OF OKLAHOMA—CONSTITUTIONAL PROVISIONS.

BY CLARK BELL, ESQ., LL. D.

(*Continued from September Number, Page* 110.)

The following extracts from the constitution as passed by the Constitutional Convention on April 18th, 1907, and submitted to the voters of the State on August 6th, 1907, relating to the Supreme Court of the State, as organized under it, as selected from that instrument as an important part of the judicial history of the present State of Oklahoma.

THE POWER AND AUTHORITY OF THE JUDICIARY.

The constitution of Oklahoma defines the authority, powers and duties of the judiciary as follows:

Section 1. The judicial power of this State shall be vested in the Senate, sitting as a Court of Impeachment, a Supreme court, District Courts, County Courts, Courts of justices of the peace, Municipal Courts, and such other courts, commissions or boards, inferior to the Supreme Court, as may be established by law.

Sec. 2. The appellate jurisdiction of the Supreme Court shall be co-extensive with the State, and shall extend to all civil cases at law and in equity, and to all criminal cases until a Criminal Court of Appeals with exclusive appellate jurisdiction in criminal cases shall be established by law. The original jurisdiction of the Supreme Court shall extend to a general superintending control over all inferior courts and all commissions and boards created by law. The Supreme Court shall have power to issue writs of habeas corpus, mandamus, quo warranto, certiorari, prohibition, and such other remedial writs as may be provided by law, and to hear and determine the same; and the Supreme Court may exercise such other and further jurisdiction as may be conferred upon it by law. Each of the justices shall have power to issue writs of habeas corpus to any part of the State upon petition by or on behalf of any person held in actual custody, and may make such writs returnable before himself, or before the Supreme Court,

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THE CRIMINAL COURT OF APPEALS, STATE OF OKLAHOMA

THE PRESENT BENCH---1909

HON. HENRY MARSHALL FURMAN,
Presiding Judge,
Ada, Oklahoma.

HON. HENRY GEORGE BAKER,
Associate Judge,
of Muskogee.

HON. THOMAS HENCHON DOYLE,
Associate Judge,
Perry, Oklahoma.

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or before any District Court, or judge thereof, in the State.

Sec. 3. The Supreme Court shall consist of five justices until the number shall be changed by law. The State shall be divided into five Supreme Court judicial districts until the legislature shall change the number of members of the court, at which time the legislature shall redistrict the State to conform with the number of justices of the Supreme Court. From each of said districts, candidates for justice of the Supreme Court shall be nominated by political parties, or by petitioners of the respective district, in the manner provided by law, and such candidates shall be voted for by the qualified voters of the State at large, and no elector at such election shall vote for more than one candidate from each district. The candidate from each district receiving the highest number of votes cast in the State at said election shall be declared the justice elect in said district. A majority of the members of the Supreme Court shall constitute a quorum and the concurrence of the majority of said court shall be necessary to decide any question. No person shall be eligible to the office of justice of the Supreme Court unless he shall be at the time of his election a citizen of the United States and shall have been a resident of the territory embraced within the State for a period of two years and of the territory comprising the district from which he is elected for a period of one year; and unless he shall have attained the age of thirty years and shall have been a lawyer licensed by some court of record or shall have been a judge of some court of record, or such judge and lawyer together at least five years.

The terms of office of the justices of the Supreme Court shall be six years, except as herein provided. Each member of such court shall be a conservator of the peace throughout the State, and in case of a vacancy in the membership of said court, the Governor shall, by appointment from the district, fill such vacancy until the next general election for State officers, and at such general election the vacancy for the unexpired term shall be filled by election by the qualified voters of the State.

Sec 4. The terms of office of the justices of the Supreme Court shall commence on the first Monday of January following their election: Provided, however, that the term of office

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of the justices elected at the first election under this constitution shall commence upon the admission of the State into the union, and shall continue as hereinafter provided. Those appointed or elected to fill vacancies shall enter upon the discharge of their duties as soon as they qualify.

Sec. 5. The sessions of the Supreme Court shall be held at the seat of government, and the sessions and duration thereof shall be fixed by rule of said court, until fixed by the legislature; but the first term of the Supreme Court shall be held within ninety days after the admission of the State. The Supreme Court shall render a written opinion in each case within six months after said case shall have been submitted for decision.

Sec. 6. At the first session of the Supreme Court, the justices thereof shall elect one of their number chief justice, who shall serve as chief justice until the expiration of his term of office; thereafter the chief justice shall be elected in the manner prescribed by law. Of the justices elected at the first election, the term of two of them shall expire at the close of the day next preceding the first Monday in January, nineteen hundred and nine; and the term of two of the others shall expire at the close of the day next preceding the first Monday in January nineteen hundred and eleven, and the term of the other justice shall expire at the close of the day next preceding the first Monday in January nineteen hundred and thirteen. The Supreme Court shall, by order duly entered in its minutes, provde the means of determining by lot the expiration of the terms of each of the justices as hereinbefore provided, and shall determine, in accordance therewith, and enter in the minutes of the court its order showing the expiration of the term of each of such justices. After the first election, justices of the Supreme Court shall be elected at the general biennial election next preceding the beginning of their respective terms.

Sec. 7. There shall be elected by the qualified electors of the State at each election for Governor, a clerk of the Supreme Court, who shall be at least twenty-five years of age and a qualified elector of the State, and whose term shall be the same as that of the Governor, and he shall give bond for faithful performance of his duty as may be prescribed by law.

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Sec. 8. The appellate and the original jurisdiction of the Supreme Court shall be invoked in the manner now prescribed by the laws of the territory of Oklahoma until the legislature shall otherwise provide.

Sec. 9. Until otherwise provided by law, the State shall be divided into twenty-one judicial districts, and the qualified electors in each of the said districts shall elect a judge of the District Court as provided herein, except in the thirteenth judicial district, two judges shall be elected. Such judge shall be a citizen of the United States, and shall have been a resident of the territory embraced within the State for two years and of the territory comprising his district at least one year prior to his election; and he shall have been a lawyer licensed by some court of record, or shall have been a judge of some court of record, or both such lawyer and judge for four years next preceding his election, and shall reside in his district during his term of office. The term of office of the District Judge shall be four years, and at the time of his election he shall have reached the age of twenty-five years. Regular terms of the District Court shall be held in each organized county of this State at least twice in each year. The time of convening the District Court in each county in this State, until the legislature shall otherwise provide, and the duration of the term shall be fixed by the Supreme Court of the State. The term of the district judges elected at the first election shall expire on the last day next preceding the first Monday in January, nineteen hundred and eleven, and the judges of the District Court thereafter shall be elected at the general election next preceding the commencement of their terms of office.

In case of the illness of the judge elected in any district, or if for any other cause he shall be unable to preside in the district in which he was elected, the chief justice may designate any district judge in the State to hold any term of court in said district in lieu of the judge elected to hold the courts of said district. Whenever the public business shall require it, the chief justice may appoint any district judge of the State to hold court in any district, and two or more district judges may sit in any district separately at the same time. In the event any judge shall be disqualified for any reason from trying any case in his district, the par-

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ties to such case may agree upon a judge pro tempore to try the same, and, if such parties cannot agree, at the request of either party, a judge pro tempore may be elected by the members of the bar of the district, present at such term. If no election for judge pro tempore shall be had, the chief justice of the State shall designate some other district judge to try such case.

Sec. 10. The District Court shall have original jurisdiction in all cases, civil and criminal, except where exclusive jurisdiction is by this constitution, or by law, conferred on some other court, and such appellate jurisdiction as may be provided in this constitution, or by law. The District courts, or any of the judges thereof, shall have power to issue writs of habeas corpus, mandamus, injunction, quo warranto, certiorari, prohibition, and other writs, remedial or otherwise, necessary or proper to carry into effect their orders, judgments or decrees. The District courts shall also have the power of naturalization in accordance with the laws of the United States.

Sec. 22. The State is hereby divided into five Supreme Court judicial districts, numbered respectively, one to five, inclusive, and is sub-divided into twenty-one District Court judicial districts, numbered, respectively, one to twenty-one, inclusive; anl all such judicial districts shall be and remain, until changed as provided in this constitution.

Sec. 23. Of the Supreme Court judicial districts, No. 1, shall embrace the 1st, 2d, 3d and 4th District Court judicial districts; No. 2 shall embarce the 5th, 6th, 7th and 8th district court judicial districts; No. 3 shall embrace the 9th, 10th, 11th, 12th and 21st District Court judicial districts; No. 4 shall embrace the 13th, 14th, 15th and 16th District Court judicial districts, and No. 5 shall embrace the 17th, 18th, 19th and 20th District Court judicial districts.

Article VIII, relating to impeachment, is as follows:

Section 1. The governor and other elective officers, including the justices of the Supreme Court, shall be liable and subject to impeachment for wilful neglect of duty, corruption in office, habitual drunkenness, incompetency ,or any offense involving moral turpitude committed while in office.

Sec. 2. All elective officers not liable to impeachment shall

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be subject to removal from office in such manner and for such causes as may be provided by law.

Sec. 3. When sitting as a court of impeachment, the senate shall be presided over by the chief justice, or if he is absent or disqualified, then one of the associate justices of the Supreme Court to be selected by it, except in cases where all the members of said court are absent or disqualified, or in case of impeachment of any justice of the Supreme Court, then the senate shall elect one of its own members as a presiding officer for such purpose. The house of representatives shall present all impeachments.

Sec. 4. When the senate is sitting as a court of impeachment the senators shall be on oath, or affirmation, impartially to try the party impeached, and no person shall be convicted without the concurrence of two-thirds of the senators present.

Sec. 5. Judgment of impeachment shall not extend beyond removal from office, but this shall not prevent punishment of any such officer on charges growing out of the same matter by the courts of the State.

Sec. 6. The legislature shall pass such laws as are necessary for carrying into effect the provisions of this article.

The following article, XV, provides as follows:

Section 1. Senators and representatives and all judicial, State and county officers shall, before entering upon the duties of their respective offices, take and subscribe to the following oath or affirmation:

"I do solemnly swear (or affirm) that I will support, obey and defend the constitution of the United States, and the constitution of the State of Oklahoma, and will discharge the duties of my office with fidelity; that I have not paid or contributed either directly or indirectly, any money or other valuable thing to procure my nomination or election (or appointment), except for necessary and proper expenses expressly authorized by law; that I have not knowingly violated any election law of the State, or procured it to be done by others in my behalf; that I will not, knowingly, receive, directly or indirectly, any money or other valuable thing for the performance or non-performance of any act or duty pertaining to my office other than the compensation allowed by law, and I further swear (or affirm) that I will not receive, use or travel

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upon any free pass or on free transportation, during my term of office."

Sec. 2. The foregoing oath shall be administered by some person authorized to administer oaths, and in the case of State officers, and judges of the Supreme Court, shall be filed in the office of the Secretary of State, and in case of other judicial and county offices, in the office of the clerk of the county in which the same is taken. Any person refusing to take said oath or affirmation, shall forfeit his office and any person who shall have been convicted of having sworn or affirmed falsely, or having violated said oath or affirmation, shall be guilty of perjury and shall be disqualified from holding any office of trust or profit within the State. The oath to members of the senate and house of representatives shall be administered in he hall of the house to which the members shall have been elected, by one of the judges of the Supreme Court, or in case no such judge is present, then by any person authorized to administer oaths.

Article XXIV, under schedule, Section 16, provides as follows:

Sec. 16. The salary of the justices of the Supreme Court of the State shall be four thousand dollars per annum, each, and that of the judges of the District Court three thousand dollars per annum, each, until changed by the legislature.

Sec. 26. All cases, civil and criminal, pending, upon the admission of the State into the union, in the Supreme Court of the territory of Oklahoma on appeal or writ of error from the District or Probate courts of any cunty or sub-division within the limits of the State, and he papers, records, proceedings and seal of said court shall be transferred to the Supreme Court of the State, except as is otherwise provided in the enabling act of congress. And all cases, civil and criminal, pending on the admission of the State into the union in the United States Court of Appeals for the Indian Territory, and all the papers, records and proceedings of said court shall be transferred to the Supreme Court of the State, except as is otherwise provided by the enabling act of congress and the amendments thereto.

Sec. 27. All cases, civil and criminal, pending at the time of the admission of the State into the union in the District

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courts of the territory of Oklahoma in any county within the district and the records, papers and proceedings of said District Court and the seal and other property appertaining thereto, shall be transferred into the District Court of the State for such county, except as it provided in the enabling act of congress, and all cases, civil and criminal, pending at the time of the admission of the State into the union in the United States court for the Indian Territory, within the limits of any county created in whole or in part within the limits of what was heretofore the Indian Territory, and all records, papers and proceedings of said United States court for the Indian Territory and the seal and other property appertaining thereto shall be transferred to the District Court of the State for such county, except as is provided in the enabling act of congress and the amendments thereto: Provided, that the legislature may provide for the tranfer of any such cases from one county to another county.

Sec. 28. The terms and provisions of an act of congress entitled, "An Act to Amend Sections Sixteen, Seventeen and Twenty, of an Act Entitled, 'An Act to enable the people of Oklahoma and of the Indian Territory to form a constitution and State government and be admitted into the union on an equal footing with the original States, and to enable the people of New Mexico and Arizona to form a constitution and State government and be admitted into the union on an equal footing with the original States.'" are hereby accepted and the jurisdiction of the cases enumerated therein is hereby assumed by the courts of the State.

Same Article provides as follows:

Sec. 33. All attorneys at law licensed to practice in any court of record of the territory of Oklahoma or any of the United States courts for the Indian Territory or any court of records of the five civilized tribes, shall be eligible to practice in any court of the State without examination.

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THE SUPREME COURT OF THE STATE OF OKLAHOMA.

CONSTITUTION OF THE STATE.

"An Act to enable the people of Oklahoma and of the Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States; and to enable the people of New Mexico and of Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States."

(Act of June 16, 1906, ch. 3335, 34 Stat. L. 267.)

ADMISSION OF OKLAHOMA AND INDIAN TERRITORY AS STATE.

Section 1. That the inhabitants of all that part of the area of the United States now constituting the Territory of Kklahoma and he Indian Territory, as at present described, may adopt a constitution and become the State of Oklahoma, as hereinafter provided: *Provided*, That nothing contained in the said constitution shall be construed to limit or impair the rights of person or property pertaining to the Indians of said Territories (so long as such rights shall remain unextinguished), or to limit or affect the authority of the government of the United States to make any law or regulation respecting such Indians, their lands, property, or other rights by treaties, agreement, law, or otherwise, which it would have been competent to make if this Act had never been passed.

(34 Stat. L. 267.)

CONSTITUTIONAL CONVENTION — ELECTION — CAPITAL AT GUTHRIE.

Sec. 2. That all male persons over the age of twenty-one years, who are citizens of the United States, or who are members of any Indian nation or tribe in said Indian Territory and Oklahoma, and who have resided within the limits of said proposed State for at least six months next preceding the election, are hereby authorized to vote for and choose delegates to form a constitutional convention for said proposed State; and all persons qualified to vote for said delegates shall be eligible to serve as delegates; and the delegates to form such convention shall be one hundred and twelve in

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number, fifty-five of whom shall be elected by the people of the Territory of Oklahoma, and fifty-five by the people of Indian Territory, and two shall be elected by the electors residing in the Osage Indian Reservation in the Territory of Oklahoma; and the Governor, the Chief Justice and the Secretary of Oklahoma shall apportion the Territory of Oklahoma into fifty-six districts, as nearly equal in population as may be, except that such apportionment shall include as one district the Osage Indian Reservation, and the Governor, the Chief Justice and the Secretary of the Territory of Oklahoma shall appoint an election commissioner who shall establish voting precincts in said Osage Indian Reservation, and shall appoint the judges for election in said Osage Indian Reservation; and two delegates shall be elected from the said Osage district ;and the Commissioner to t ehFive Civilized Tribes, and two judges of the United States courts for the Indian Territory, to be designated by the President, shall constitute a board, which shall apportion the said Indian Territory into fifty-five districts, as nearly equal in population as may be, and one delegate shall be elected from each of said districts; and the Governor of said Oklahoma Territory, together with the judge senior in service of the United States courts in Indian Territory, shall, by proclamation in which such apportionment shall be fully specified and announced, order an election of the delegates aforesaid in said proposed State at a time designated by them within six months after the approval of this act, which proclamation shall be issued at least sixty days prior to the time of holding said election of delegates. The election for delegates in the Territory of Oklahoma and in said Indian Territory shall be conducted, the returns made, the result ascertained, and the certificates of all persons elected to such convention issued in the same manner as is prescribed by the laws of the Territory of Oklahoma regulating elections for delegates to Congress. That the election laws of the Territory of Oklahoma now in force, as far as applicable and not in conflict with this act, including the penal laws of said Territory of Oklahoma relating to elections and illegal voting, are hereby extended to and put in force in said Indian Territory until the legislature of said proposed State shall otherwise provide, and until all persons

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offending against said laws in the election aforesaid shall have been dealt with in due manner therin provided. And the United States courts of said Indian Territory shall have the same power to enforce the laws of the Territory of Oklahoma, hereby extended to and put in force in said Territory, as have the courts of the Territory of Oklahoma: *Provided, however,* That said board to apportion districts in Indian Territory shall, for the purpose of said election, appoint an election commissioner for each district who shall distribute all ballots and election supplies to the several precincts in his district, receive the election returns from the judges in precincts, and deliver the same to the canvassing board herein named, establish and define the necessary election precincts, and appoint three judges of election for each precinct, not more than two of whom shall be of the same political party, which judges may appoint the necessary clerk or clerks; that said judges of election, so appointed, shall supervise the election in their respective precincts, and canvas and make due return of the vote cast, to the election commissioner for said district, who shall deliver said returns, poll books, and ballots to said board, which shall constitute the ultimate and final convassing board of said election, and they shall issue certificates of election to all persons elected to such convention from the various districts of the Indian Territory, and their certificates of election shall be prima facie evidence as to the election of delegates: *Provided, further,* That in said Indian Territory and Osage Indian Reservation, nominations for delegates to said constitutional convention may be made by convention, by the Republican, Democratic and People's party, or by petition in the manner provided by the laws of the Territory of Oklahoma; and certificates and petitions of nomination in said Indian Territory shall be filed with the districting and canvassing board, who shall perform the duties of election commissioner under said law, and shall prepare, print nad distribute all ballots, poll books, and election supplies necessary for the holding of said election under said laws. The capital of said State shall temporarily be at the city of Guthrie, in the present Territory of Oklahoma, and shall not be changed therefrom previous to anno domini nineteen hundred and thirteen, but said capital shall, after said year, be located by the

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electors of said State at an election to be provided for by the legislature: *Provided, however*, That the legislature of said State, except as shall be necessary for the convenient transaction of the public business of said State at said capital, shall not appropriate any public moneys of the State for the erection of buildings for capitol purposes during such period.

(34 Stat. L. 268.)

JUDICIAL DISTRICTS CREATED — COURTS — ATTACHED TO EIGHTH CIRCUIT—JUDGES, ATTORNEYS AND MARSHALS—CLERKS—TERMS—JURISDICTION OF COURTS AND OFFICIALS —OKLAHOMA LAWS EXTENDED.

Sec. 13. That said State when admitted as aforesaid shall constitute two judicial districts, to be known as the Eastern District of Oklahoma and the Western District of Oklahoma; the said Indian Territory shall constitute said Eastern District, and said Oklahoma Territory shall constitute said Western District. The Circuit and District courts for the Eastern District shall be held one term at Muskogee, one term at Vinita, one term at Tulsa, one term at South McAlester, one term at Chickasha, and one term at Ardmore, each year, and the Circuit and District courts of the Western District shall be held one term at Guthrie, one term at Oklahoma City, and one term at Enid, and one term at Lawton, each year, for the time being. And the said districts shall, for judicial purposes, until otherwise provided, be attached to the Eighth Judicial Circuit. There shall be appointed for each of said districts one district judge, one United States attorney, and one United States marshal. There shall be appointed a clerk for each of said districts, who shall keep his office at Muskogee and Guthrie, respectively, for the time being. The regular term for said courts shall be hel dat the places designated in this act, at Muskogee on the first Monday in January and at Vinita on the first Monday in March, and at Tulsa on the first Monday in April; at South McAlester on the first Monday in June; at Ardmore on the first Monday in October; at Chickasha on the first Monday of November; at Guthrie on the first Monday in January; at Oklahoma City on the first Monday in March; at Enid on the first Monday in June, and at Lawton on the first Monday in October, in each year, and one grand

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jury shall be summoned in each year in each of said Circuit and District courts. The Circuit and District courts for each of said districts, and the judges thereof, respectively, shall possess the same powers and jurisdiction and perform the same duties required to perform by the other Circuit and District courts and judges of the United States, and shall be governed by the same laws and regulations. The marshal, district attorney, and clerk of each of the Circuit and District courts of said districts, and all other officers and persons performing duties in the administration of justice therein, shall severally possess the powers and perform the duties lawfully required to be performed by similar officers in other districts of the United States, and shall, for the services they may perform, receive the fees and compensatoin now allowed by law to officers performing similar services for the United States in other districts of the United States; and that the laws in force in the Territory of Oklahoma, as far as applicable, shall extend over and apply to said State until changed by the legislature thereof.

(34 Stat. L. 275.)

PROSECUTION OF CRIMES.

Sec. 14. That all prosecutions for crimes or offenses hereafter committed in either of said judicial districts as hereby constituted shall be cognizable within the district in which committed, and all prosecutions for crimes or offenses committed before the passage of this act in which indictments have not yet been found or proceedings instituted shall be cognizable within the judicial district as hereby constituted in which such crimes or offenses were committed.

(34 Stat. L. 275.)

DETERMINATION OF APPEALS AND WRITS OF ERROR—TIME ALLOWED.

Sec. 15. That all appeals or writs of error taken from the Supreme Court of Oklahoma Territory, or the United States Court of Appeals in the Indian Territory to the Supreme Court of the United States or the United States Circuit Court

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of Appeals for the Eighth circuit, previous to the final admission of such State, shall be prosecuted to final determination as though this act had not been passed. And all cases in which final judgment has been rendered in such Territorial appellate courts which appeals or writs of error might be had United States, or the United States Circuit Court of Appeals, taken and prosecuted to the Supreme Court of the United States or the United States Circuit Court of Appeals under the provisions of existing laws, and there held and determined in like manner, and in either case the Supreme Court of the lowed by existing laws for appeals and writs of error from in the event of reversal shall remand the said causes to either the State Supreme Court or other final appellate court of said State, or the United States Circuit and District courts of said State, as the case may require: *Provided,* That the time alby, and all appeals and writs of error not sued out from the appellate courts of said Territories shall not be enlarged hereby, and all appeals an dwrits of error not sued out from the final judgments of said courts at the time of the admission of such State shall be taken within six months from such time.

(34 Stat. L. 276.)

TRANSFER OF PENDING FEDERAL CIVIL CASES—LIMIT OF TRANSFERS—CASES IN CIRCUIT COURT—DECISIONS—APPEALS, ETC.—PROSECUTION OF PENDING CRIMINAL CASES—TRANSFER TO CIRCUIT OR DISTRICT COURT—JURISDICTION OF CIRCUIT COURTS.

Sec. 16. That all civil cases, proceedings and matters pending in the Supreme or District courts of Oklahoma Territory, or in the United States courts or United States Court of Appeals in the Indian Territory, arising under the constitution, laws or treaties of the United States, or affecting ambassadors, ministers, or consuls of the United States, or of any other country or State, or of admiralty, or of maritime jurisdiction, or in which the United States may be a party, or between citizens of the same State claiming lands under grants from different States; and all cases where there is a controversy between a citizen of either of said Territories prior to admission and a citizen of any State, or between a cit-

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izen of any State and a citizen or subject of any foreign state or country, in which cases of diversity of citizenship there shall be more than two thousand dollars in controversy, ex-case where the United States is not a party, except on applica-United States Circuit Court or District Court established by this act, for final disposition, and shall therein be proceeded with in the same manner as if originally brought therein: *Provided*, That said transfer shall not be made in any such case wher the United States is not a party, except on application of one of the parties, in the court in which the case is pending, at or before the second term of such court after the admission of said State, supported by oath, showing that the case is one which may be so transferred. The proceedings to effect such transfer, except as to time and parties, shall be the same as are now provided by law for the removal of causes from a State court to a Circuit court of the United States. Cases transferred from appellate courts shall go to the Circuit Court of the United States in such State, which courts, for the purpose of hearing such cases, are hereby vested with all powers of such Territorial appellate courts. If the Circuit Court shall affirm the judgment, it shall, if the case be one then originally cognizable in the District Court, remand it to that court for carrying into effect the judgment of the trial court; but if the case be one then originally cognizable in the Circuit Court, it shall carry into effect the judgment of the trial court. If the Circuit Court shall reverse the judgment, it shall, if the case be one then originally cognizable in the District Court, remand the case to that court for a new trial; but if the case be one then originally cognizable in the Circuit Court, it shall set the case down for a new trial therein. All final judgments and decrees rendered in such Circuit Court and District courts in such transferred cases, may be reviewed by the Supreme Court of the United States, of by the United States Circuit Court of Appeals, in the cases and in the same manner as is now provided by law with reference to the judgments and decrees of the existing United States Circuit and District courts. Prosecutions for all crimes and offenses committed within the Territory of Oklahoma or in the Indian Territory, pending in the District courts of the Territory of Oklahoma or in the United States courts in the

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Indian Territory upon admission of such Territors as a State, which, had they been committed within a State, would have been cognizable in the Federal courts, shall be transferred to and be proceeded with in the United States Circuit or District Court established by this act for the district in which the offenses were committed, in the same manner and with the same effect as if they had been committed within a State. Prosecutions for all such offenses committed within either of said Territories and pending in the Supreme Court of the Territory of Oklahoma, or in the United States Court of Appeals in the Indian Territory, upon admission of such Territories as a State, shall be transferred to the United States Circuit Courts created by this act for the district within which the offense was committed, which courts are hereby vested with the same jurisdiction to hear such cases as is now vested in the appellate courts of such Territories. Upon the affirmance or reversal by the Circuit Court of a judgment in any case, like proceedings shall be had, and like appeals and writs of errors allowed, as is provided in this section of this act in civil cases.

(34 Stat. L. 1286.)

"The above section 16 was 'amended so as to read as' here given by sections 1 of the act of March 4, 1907, ch. 2911, and the original section 16 was, by section 4 of this act, repealed."

DETERMINATION OF STATE CASES IN SUPREME COURT—REVIEW, ETC.

Sec. 17. That all causes, proceedings and matters, civil or criminal, pending in the Supreme Court of the Territory of Oklahoma, or in the United States Court of Appeals in the Indian Territory, not transferred to the United States Circuit or District Courts in said State of Oklahoma, shall be proceeded with, held and determined by the Supreme Court or other final appellate court of such State as the successor of said Supreme court of the Territory of Oklahoma and of the United States Court of Appeals of the Indian Territory, subject to the same right of review upon appeal or writ of error to the Supreme Court of the United States now allowed from the Supreme Court or final appellate court of a State under existing laws.

(34 Stat. L. 1289.)

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"The above section 17 was 'amended so as to read as' here given by section 2 of the act of March 4, 1907, ch. 2911, and the original section 17 was, by section 4 of that act, repealed."

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THE JUDICIAL HISTORY OF THE INDIAN TERRITORY NOW FORMING A PART OF THE STATE OF OKLAHOMA.

BY CLARK BELL, ESQ., LL. D., OF THE NEW YORK BAR.

The new State of Oklahoma embraces within its boundaries all the domain formerly known as the Indian Territory, covering and embracing substantially, what is now the eastern half of the State, and also includes the Territory substantially of what is now the western half of the State.

The area of the Indian Territory was fixed approximately by the census of 1900 at 31,000 square miles. It having been reserved for the Indian tribes it was unexplored and practically unknown.

The survey ordered by the government in 1894 shows that instead of a flat county that one-fourth of it was mountainous and that nearly two-thirds of it was woodland.

Before the inflow of whites in 1890 the population was only 180,182. In 1900 this had increased to 392,060. By that census the Indians of the Territory were divided as follows: The Cherokee Nation, 101,754; the Chickasaw Nation, 139,260; the Choctaw Nation, 99,681; the Creek Nation, 40,674; the Seminole Nation, 3,786.

The Indian reservations were then by that census: The Modoc, 140; Ottawa Reservation, 2,205; the Quapaw Reservation, 154; the Seneca Reservation, 255; the Shawnee Reservation, 79; the Wyndotte Reservation, 288, and Indians not located by reservation, 861.

The negroes enumerated were slaves of the Indians or descendants of ex-slaves and share in the allotments of lands with the Indians.

A non-citizen staying with a tribe is made a citizen and receives an allotment of land.

The "Five Civilized Nations," the Cherokees, the Chickasaws, the Creeks, Choctaws and the Seminoles, who occupy almost the whole of the Territory, came then under an agreement with the United States guaranteeing their tribal authority.

They organized each tribe by itself under forms of government resembling in some respects our State government,

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under a governor, a senate, a legislature, which was elected by a popular vote, and established courts, school system and a fiscal system. As such each of the tribes governed and ruled its own territory the same as if it was an independent State with a self governing system, until the recent changes.

The white population outnumbering the Indians six to one had no voice or vote except by intermarriage with Indians. Indian tribal rules, tradition, administration of justice, and all matters of law were conducted by each tribe within its own jurisdiction.

The opening of the country to white settlement followed. Congress from time to time passed acts extending the jurisdiction of the Federal courts and their powers, but recognizing the rights, power and authority of the tribal governments, behind which was the increasing power of the white settlers, who bought lands and leased lands, and made improvements.

It was the onmarching of the civilization of the day, and looked to the ultimate extension of the American governmnet and people over the whole of the Territory.

The Dawes Commission was appointed in 1893 to negotiate with the Indians for the allotments of their lands and to have them ceded to the United States government. This involved over twenty million acres of land, the title to which was vested in the Indians as claimants, and having the lawful title.

Treaties were made with the Choctaw and Cherokees extending their governments then existing until March, 1906.

The transformation proceeded slowly, illustrating how the resisting Indian agent; the advancing wave of civilization was sometimes concilliated, sometimes ignored. The final ending of this was the creation of the new State of Oklahoma, of which all the inhabitants became citizens, and in which the Indian tribes became merged and their forms of government in all the tribes are now united and consolidated under the constitution of the new State of Oklahoma.

The administration of the law and the organization of the tribal courts was a most singular spectacle in the judicial history of the laws by the Indian tribes concerned, and to which Chief Justice Williams of the Supreme Court of the new State contributes a special chapter. It is perhaps the last

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light thrown by the history at the opening of the present century, of the judicial forms, laws and usages of the aborigines of the Indian tribes of North America in looking backward on the passing of the races that had occupied the North American Continent.

The first court under the authority of the United States government ever held in the Indian Territory was held and authorized by an act of Congress passed March 1st, 1889, entitled "An act establishing a United States Court in the Indian Territory (vide U. S. Stat. at Large, Vol. 25 C. 333P. 783 March 1, 1889.) The jurisdiction of the court thus created covered the Indian Territory thus bounded and described: North by the State of Kansas, east by the State of Missouri and Arkansas, south by the State of Texas, and west by the Territory of New Mexico.

This court was clothed with "exclusive original jurisdiction over all offences against the laws of the United States, committed within the Indian Territory, not punishable with death or by imprisonment with hard labor" (Sec. 5).

On May 2d, 1890, an act was passed by Congress which provided for a temporary government of the Territory of Oklahoma which enlarged the jurisdiction of the United States court in the Indian Territory: defined the boundaries of the Territory of Oklahoma, divided the Territory into three divisions and enlarged the jurisdiction and power of the court; and provided for the administration of justice. (Vide U. S. Stat. at Large, Vol. 26, C182 P., 81, May 2, 1890.)

On March 1, 1895, Congress passed an act to provide for the appointment of additional judges of the United States Court in the Indian Territory, creating three judicial districts in the Indian Territory—Northern, Central and Southern; increasing the salary of the judges to five thousand dollars a year, and creating the United States Court of Appeals in the Indian Territory, with appellate jurisdiction as defined by Section 11 of said act to be presided over by the judge oldest in commission as chief justice of that court, with like powers as the Supreme Court of Arkansas, then held under the laws of that State, as provided by Chapter 40 of Mansfield Digest of the laws of Arkansas. (Vide U. S. Stat. at Large, Vol. 28, C145, P. 693.)

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The powers and duties of the circuit judges of the United States Court in the Indian Territory were defined by Section 3633.

Gen. James M. Schackelford, of Muskogee, was the first Federal judge, appointed by President Harrison, under the act in April, 1889, and he held the first U. S. Court in that Territory in Muskogee. He served until 1893, when President Cleveland appointed Hon. Charles B. Stuart, of McAllester, Okla., who succeeded to the position.

After the act of March 1, 1895, establishing the U. S. Court of Appeals, Judge Stuart became Chief Justice of that tribunal and Hon. Wm. M. Springer, of Springfield, Ill., and Hon. C. B. Kilgore, of Texas, were appointed judges of that court, and served as associate judges thereof. Chief Justice Stuart served in the Central District of the Territory until he resigned his seat on the bench and became the general attorney of the C. O. & G. Railway Company.

The Hon. Yancy Lewis, of Texas, was appointed and served on this bench, and the following honorable gentlemen: Wm. H. H. Clayton, of McAllester, Ok.; Hon. Hosea Townsend, of Silver Cliff, Col.; Col. Hon. John R. Thomas, of Illinois, now of Muskogee; Hon. Jos. Hill, of Kansas, but now of Vinita, Ok.; Hon. C. W. Raymond, of Muskogee, Ok., who served as chief justice of the court. He was appointed by President McKinley in 1901 judge of that court. In 1902 he was recommissioned by President Roosevelt, and in 1903 he became chief justice of the U. S. Court of Appeals, and held that position until the close of his term. Judge Wm. R. Lawrence, of Muskogee, Ok., held the position of judge on that bench.

The judicial history of the Indian Territory is unique in its administration of the laws as understood and practiced.

Perhaps in no place on this continent were the traditions, judicial power and authority as understood and observed by the aborigines in a more concrete and perfect form—that in the small civilized tribes who became the occupants and possessors of the lands upon which they were placed, usually under treaty rights by our government.

The general government and management of the civilized

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tribes were each kept separate, and carefully defined, and present a most interesting chapter in our American judicial history.

Mr. Chief Justice Williams will devote himself to a resume of the judicial history of the jurisprudence of the Indian tribes fho resided in this territory, which has now come under the laws of the new State of Oklahoma, superceded by the State Supreme Court of that State under the Constitution adopted by the people.

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THE UNITED STATES COURTS IN THE INDIAN TERRITORY.

BY HON. R. L. WILLIAMS, CHIEF JUSTICE SUPREME COURT OF OKLAHOMA.

Prior to the 1st day of March, A. D., 1889, offenses committed on the reservations of the Five Civilized Tribes, which at that time included what was afterwards designated as Oklahoma Territory, except as between members of the same tribe, were within the exclusive jurisdiction of the United States courts of the adjacent States of Kansas, Arkansas and Texas. That portion which afterwards comprised the territory of Oklahoma was cognizable in the United States Court for the Kansas district at Wichita; the Chickasaw Nation and the southern part of the Choctaw Nation in the Eastern District of Texas at Paris, and the remainder of the Indian Territory in the Western District of Arkansas.

The necessity that such courts should have jurisdiction of such matters within the Indian Territory was patent, and such was in accordance with the treaties of 1866 entered into between the United States government and the different tribes. The population of the Five Civilized Tribes had gradually increased. The labor of the missionaries, inter-marriage of the Indian with the white race, commercial and political influences, developed there the highest type of the American Indian.

For half a century this country had been a place of refuge for fugitives from justice and those seeking to evade their creditors. Under the tribal laws there was no remedy for the recovery of debts, even among the members of the tribes, and the Federal courts of the adjoining States had no jurisdiction over persons in these Indian reservations for such purposes.

The difficulty of enforcing the law at so great a distance from the seat of justice against the criminal violators, no remedies for the collection of debts,—and if there had been such the courts being at such a distance, the same would have been inadequate,—the importunity of the vast number of non-resident creditors petitioning congress for relief against those who had left the States and taken up their abode within the Indian borders, to avoid their creditors; the persistent efforts

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of home-seekers to settle on the lands in what was afterwards Oklahoma Territory, created an urgent necessity for the creation and organization of the Federal courts within the borders of the Indian Territory. And Congress, on the first day of March, A. D. 1889, passed an act establishing a United States Court in the Indian Territory (U. S. Stat. at Large, vol. 25, ch. 333, p. 783), to be held at Muskogee, in the Creek Nation, and the following officers of said court were appointed by President Harrison, to wit: The Honorable Jas. M. Shackleford, of Evansville, Indiana, judge; the Honorable Thos. B. Needles, of Nashville, Illinois, marshal; Major Nelson (who was succeeded in July, 1892, by Marshall L. Bragdon), clerk; the Honorable Z. T. Walrond, of Kansas, attorney, and John S. Jenkins, of Texas, and Thos. A. Sanson, of New Jersey, assistant attorneys.

There was, on the 26th day of July, A. D. 1888, a section of country lying between Kansas and Texas, bounded on the west by New Mexico, and extending east to the 100th meridan of longitude, commonly called the Neutral Strip, or No Man's Land. It was originally a part of the republic of Texas, but in the annexation the parallel of 36 degrees and 30 minutes was made the northern boundary of the State, and when Kansas and Colorado were subsequently organized their southern boundary was on the 37th parallel, the west line of the Indian Territory being fixed at the 100th meridian and the east boundary of New Mexico on the 103rd meridian, thus leaving this strip of land not included in any organized State or Territory.

This territory referred to as the Neutral Strip or No Man's Land was excluded from the State of Texas in the annexation on account of the act commonly known, during the slavery agitation, as the Missouri Compromise, providing in effect that thereafter in the admission of new States into the Union slavery should be excluded from States north of the parallel of 36 degrees and 30 minutes, and Texas being annexed as a slave State, same was excluded in order not to violate the terms of said act, which was afterwards repealed during the administration of President Pierce.

By the act of Congress of March 1st, A. D. 1889 (29 Stat., 783, ch. 333), *supra*, it was provided that a United

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States Court is hereby established whose jurisdiction shall extend over the Indian Territory, bounded as follows, to wit: On the north by the State of Kansas, east by the States of Missouri and Arkansas, south by the State of Texas, and west by the State of Texas and the territory of New Mexico. The Indian Territory as thus defined stretched to the border of New Mexico. Under the provisions of section 17 of said act it was provided that said portion of the Indian Territory referred to as the Neutral Strip or No Man's Land should from and after the passage of said act be annexed to and constitute a part of the eastern district of the State of Texas for judicial purposes. By an act of May 2nd, A. D. 1890 (26 Stat., 81, ch. 192), hereinafter referred to, this territory known as the Nentral Strip or No Man's Land was made a part of the territory of Oklahoma, but by section 9 of said act it was provided that crimes committed therein prior to the passage of said act should be tried, prosecuted and proceeded with in the courts then having jurisdiction thereof, as if said act had not been passed.

At the October term, A. D. 1889, of the Circuit Court of the United States for the Eastern District of Texas, sitting at Paris in said State, there were indicted for murder committed in No Man's Land C. E. Cook, Orin Cook, Capt. C. E. Frease, formerly from Ohio; Johnnie Jackson, Ed. Boudin, John Colvert, and five others, charging them, and each of them, with the murder of John Cross, Ted Eaton, Rollo Wilcox and Bill Hubbard. This crime arose out of a county seat fight between the towns of Hugoton and Woodsdale, in the county of Stevens, State of Kansas, said county having been named for the Honorable Thaddeus Stevens, for many years a member of Congress from Pennsylvania. Herbert Tony was left at the place of the crime, thought to be dead, but afterwards recovered and was used by the government in the prosecution of the case against Cook and others in the Federal court at Paris, Texas, as the principal witness. Sam Robinson,, the party who did the actual killing, fled from the State of Kansas to the State of Colorado, where he was afterwards arrested for a crime there committed and convited and sentenced to the State penitentiary at Canon City, Col., for a perioh of ten

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years, where he soon afterward died and was never tried under these Federal indictments. Cook and seven others were convicted of the crime of murder in the Federal court at Paris, Tex., and the case is reported in the 138th U. S. Rep., p. 137, wherein the Honorable Geo. R. Peck, of Chicago; John F. Dillon, of New York City; Wm. R. Day, now one of the Justices of the Supreme Court of the United States; Mr. Joseph Frease, of Ohio, and Mr. W. H. Rossington, of Topeka, Kansas, appeared as counsel for the appellants. The Honorable S. B. Bradford, formerly attorney general of Kansas, and the Honorable J. C. Hodges, of Paris, Texas, were attorneys for the defendants in the trial court. For some reason, probably on account of the difficulty in procuring witnesses in the case, who had then scattered to different States, the case was never again tried after it was reversed by the Supreme Court of the United States.

This was one of the most celebrated criminal cases ever tried in the Southwest. Eleven men under the same indictment were put on trial for their lives; eight of them were convicted of murder and sentenced to death. Some of these defendants were prominently connected; some had served their country on the battlefield in the hour of its national danger. But when they drifted to the frontier the bitter controversies arising over town rivalry for the county seat resulted in almost as deadly and fierce combats as between the clans of ancient Scotland. But the rule of force that was the law of that ancient day had given way to the Norman maxim that "no man is above the law." Men who had a record of fidelity anh service, consecrated with an offer of their lives upon their country's altar and of prominent family connections ,on account of the same spirit that made one clan fight another clan in that historic land, fought such feudal battles here on account of the rivalry to be designated as shiretowns, and slew their neighbors; but neither mountain fastnesses nor feudal castles afforded them refuge from the manacles of the law. They were brought into the temple of justice, and a sentence carrying with it the highest penalty known to the law was imposed.

At that time not a single permanent white settlement was in what was afterwards designated as the territory of Okla-

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homa, and not a foot of soil was owned in the entire Indian Territory by a white man, or any other person in fee simple.

The first session of the United States Court in the Indian Territory was held on the first day of April, A. D. 1889, at Muskogee, Indian Territory, being opened by prayer by the Reverend Mr. Bryce, pastor of the M. E. shurch, South.

One of the most important questions to be raised was as to the statute of limitation. The court held that no statute of limitation had theretofore been in force in said country, and debts created as far back as the Civil War were collected (Jones vs. Baer, 37 Law Edition, Supreme Court Reports, United States, p. 947).

On the 2nd day of May, A. D. 1890, Congress passed another act, entitled "An act to provide a temporary government for the Territory of Oklahoma, enlarge the jurisdiction of the United States Court in the Indian Territory, and for other purposes," and under this act the jurisdiction of said court was increased, and certain laws and procedure of the State of Arkansas were extended to and put in force in the Indian Territory, and the court was divided into three divisions, to be held at Muskogee, South McAlester and Ardmore.

Section 41 of the act of Congress of May 2nd, A. D. 1890, *supra*, provides that the Judge of the United States Court in the Indian Territory shall have the same power to extradite persons who have taken refuge in the Indian Territory, charged with crimes in the States or other territories of the United States, that was then exercised by the Governor of Arkansas in that State, and that he may issue requisition upon governors of States and other territories for persons who have committed offenses in the Indian Territory, and who have taken refuge in such States or territories. Prior to that time it was very difficult to apprehend in the Indian Territory fugitives from the States.

Court was first held at South McAlester, in the Choctaw Nation, in the Second Division, afterwards called the Central District, about the first of September, A. D. 1890, and at Ardmore, in the Chickasaw Nation, the Third Division, afterwards called the Southern District, in the month of October, A. D. 1890.

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During the first four years of the establishment of the United States Court in the Indian Territory, seventy-three deputies and possemen were either killed or wounded in the territory whilst engaged in the discharge of their duties, and about three times that number of persons were killed or wounded by the officers whilst resisting or fleeing from arrest.

In 1893 President Cleveland appointed the following to succeed the then incumbents in office: The Honorable Chas. B. Stuart, of Gainesville, Texas, to succeed Judge Shackleford; the Honorable Clifford L. Jackson, of Muskogee,, Indian Territory,, Colonel Waldron as United States attorney; the Honorable J. J. McAlester, of South McAlester, Indian Territory, Colonel Needles as marshal. J. W. Phillips, Esquire, of Gainesville, Texas,, was appointed by Judge Stuart to succeed Marshall L. Bragdon as clerk, and the Honorable Jas. M. Givins, of Muskogee, Indian Territory, by the attorney general as assistant United States attorney.

On the 1st day of March, A. D. 1895, Congress passed an additional act, styled "An act for the appointment of additional judges for the United States Court in the Indian Territory, and for other purposes." This act divided the territory into three districts, to wit: Northern, Central and Southern, and designated Judge Stuart as Judge of the Central District, the Honorable Clifford L. Jackson as attorney for the Northern District, the Honorable J. J. McAlester as marshal of the Central District, and the Honorable J. W. Phillips as clerk of the Southern District; and also provided that the judges of the district courts should constitute the United States Court of Appeals of the Indian Territory, and hold its sessions at South McAlester. The oldest judge in point of commission was to become chief justice.

The following officers for said districts were immediately thereafter appointed by President Cleveland: For the Northern District, the Honorable Wm. M. Springer, formerly a congressman from the Springfield, Illinois, district, judge; S. M. Rutherford, of Fort Smith, Arkansas, descended from the Rutherfords of South Carolina, and related to the Belmonts of New York City, marshal. For the Central District, the Honorable Wm. J. Horton, of Fort Smith, Arkansas, attorney. For the Southern District, the Honorable C. B. Kil-

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gore, formerly a congressman from the Wilspoint, Texas, district, judge; C. L. Stowe, formerly of Sherman, Texas, marshal, and the Honorable A. C. Cruce, formerly of Kentucky, attorney.

The Court of Appeals was organized, and the Honorable Fielding Lewis, a Virginian and a collateral descendant of President Washington, was appointed clerk of this court, and the marshal of the Central District by the terms of said act became ex-officio marshal of said court.

The following clerks were appointed: P. B. Stoner, Esquire, formerly of Gainesville, Texas, clerk of the Central District, by Judge Stuart; Major Jas. A. Winston, formerly of Illinois, clerk of the Northern District, by Judge Springer.

The Northern District under said act comprised the Cherokee, Creek, Seminole and Quapaw country, the places of holding court being Muskogee, Vinita, Tahlequah and Miami; the Central District the Choctaw Nation, with South McAlester, Atoka, Antlers and Cameron as court towns; the Southern District the Chickasaw Nation, with Ardmore, Chickasaw, Pauls Valley, Purcell and Ryan as court places.

Under said act of March 1st, A. D. 1895, the judges of the respective districts were authorized to appoint United States commissioners, ex-officio justices of the peace, and define the boundaries of their districts, said commissioners to have the same jurisdiction as justices of the peace under certain laws of Arkansas.

In September, A. D. 1895, Judge Stuart resigned, and was succeeded by the Honorable Yancey Lewis, of Ardmore, Indian Territory, a descendant of the Yanceys of South Carolina. Judge Springer then, by virtue of holding the oldest commission, became Chief Justice of the Court of Appeals.

Under the act of March 1st, A. D. 1895, on September 1st, 1896, the United States courts of the Indian Territory acquired full jurisdiction over all offenses committed within their respective borders, the jurisdiction formerly held by the United States courts at Paris, Texas; Fort Smith, Arkansas, and Wichita, Kansas, being discontinued, except as to pending cases.

In the summer of 1897 the Honorable Wm. H. H. Clayton, of Fort Smith, Arkansas, formerly United States attor-

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ney for the Western District of Arkansas covering a period of about fourteen years, was appointed by President McKinley to succeed Judge Lewis in the Central District.

On the 7th day of June, A. D. 1897, Congress passed an act providing for an additional or supernumerary judge for the Indian Territory, and the Honorable John R Thomas formerly a congressman from Illinois, was appointed by President McKinley to this position.

In the latter part of the year 1897, the first verdicts carrying with them the sentence of death were rendered in the Uuited States courts in the Indian Territory for the Northern District at Muskogee. One Cyrus W. Brown being convicted of the murder of one Cuspeth in a house boat on the Arkansas River near Webbers Falls, the motive being robbery; also one George Curley, a negro, of the murder of one Richard Carr near Choska, the motive likewise being robbery. Both the said Cyrus W. Brown and the said George Carr were executed by being hanged in the old jail on Denison street in the city of Muskogee, Deputy Marshall Wm. F. Barker being the executioner

In the early part of the year 1898, the Honorable Fielding Lewis was succeeded by the Honorable Wm. P. Freeman, of Missouri, as clerk of the United States Court of Appeals. About the same time the Honorable Pliny L. Soper, formerly of Kansas, and a nephew of the Honorable Cyrus Leland, of Troy, Kansas, succeeded the Honorable Clifford L. Jackson as attorney for the Northern District; Chas. H. Sawyer, Esq., of Connecticut, succeeded the Hon. Jas. M. Givens as assistant attorney, and Dr. Leo. E. Bennett, formerly of Arkansas, the Honorable S. M. Rutherford as marshal; the Honorable W. B. Johnston, of Ardmore, Indian Territory, formerly of Kentucky, succeeded Mr. Cruce as attorney for the Southern District, who was succeeded in 1905 by Mr. Walker, formerly of Ohio; the Honorable J. H. Wilkins, of Atoka, Choctaw Nation, formerly of Arkansas, succeeded Mr. Horton as attorney for the Central District, and in 1905 was succeeded by T. B. Latham, Esquire, of Antlers, Indian Territory, Choctaw Nation, formerly of Arkansas. In 1897 E. J. Fannin, Esquire, succeeded Mr. Stoner as clerk of the Central District, and

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C. M. Campbell, Esquire, Mr. Phillips, of the Southern District.

One of the last acts passed by Congress under President Harrison's administration was to create a Commission to the Five Civilized Tribes, commonly known as the Dawes Commission, and President Cleveland appointed ex-Senator Dawes, of Massachusetts, chairman of that commission, and ex-Congressmen Montgomery, of Kentucky, and Cabaness, of Georgia, General Armstrong, of the District of Columbia, and Captain A. S. McKennon, of Arkansas, as his associates. Under President McKinley's administration Armstrong, Montgomery and Cabaness were succeeded by Tams Bixby, of Minnesota; Thos. B. Needles, of Illinois, and C. R. Brekinridge, of Arkansas. Afterwards Captain A. S. McKennon was succeeded by ex-Governor Stanley, of Kansas. Afterwards Governor Stanley resigned, and the vacancy was never filled.

Judge Kilgore's death having occurred in the month of October, A. D. 1897, he was succeeded by ex-Congressman Hosea B. Townsend, of Silver Cliff, Colorado.

Vast and complicated questions were determined by said courts. Under an act of Congress of June 10th, A. D. 1896, the right to determine citizenship in the different tribes, by appeal from the tribal council and the Commission of the Five Civilized Tribes, was conferred on said courts in the Indian Territory, whose decisions were final, until the act of July 1st, A. D. 1898, the remedy of appeal to the Supreme Court of the United States from judgments rendered relative to controversies over citizenship in the different nations of the Five Civilized Tribes being granted, extending only to the constitutionality or validity of the legislation affecting citizenship or the allotment of lands in the Indian Territory. (Stephens et al. vs. Cherokee Nation; Choctaw Nation vs. Robinson; Johnson vs. Creek Nation; Chickasaw Nation vs. Wiggs et al., 174 U. S. 446, 43 L. Ed. 1041.)

Afterwards the question arose, on account of the Choctaws having a certain interest in the lands of the Chickasaw Nation, and the Chickasaws an interest in the lands of the Choctaw Nation, that as both nations were not made parties to the cases involving citizenship, such judgments were void.

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By act of Congress of July 1st, A. D. 1902, a court was created, knawn as the Choctaw and Chickasaw Citizenship Court, whose judgments were to be final. Judge Spencer B. Adams, of North Carolina; Judge Weaver, of Ohio, and Judge Foote, of California, were appointed as members of this court, Judge Adams being the presiding judge thereof. Judge Foote, who is since deceased, was a son of the Honorable Henry S. Foote, United States Senator from Mississippi prior to the war. Under judgments rendered by this court thousands of persons who had claimed citizenship and established same through orders of the Dawes Commission and judgments of the United States courts were denied same. The constitutionality of this court was bitterly assailed, but it was finally sustained by the Supreme Court of the United States. (Ex parte Joins, 191 U. S. 93, 48 L. Ed. 110; Wallace vs. Adams, 74 C. C. A. 540, 143 Fed. 720, 204 U. S. 419, 27 Sup. Ct. Rep. 363, 51 L. Ed. 547.)

The law firm of Manfield, McMurray & Cornish, of South McAlester, Indian Territory, represented the Choctaw and Chickasaw Nations. Their compensation was to be fixed by an order of the Citizenship Court. They were allowed by that court the sum of seven hundred and fifty thousand dollars, which fee was bitterly assailed and criticised by many members of the tribes.

On January 1st, A. D. 1900, the Honorable Joseph A. Gill, a native of Virginia, but then of Colby, Kansas, by appointment of President McKinley, succeeded Judge Springer of the Northern District. Chas. A. Davidson was appointed by Judge Gill to succeed Major Winston as clerk. The chief justiceship of the United States Court of Appeals then passed to Judge Clayton. Judge Springer at the expiration of his term of office removed to Washington, D. C., where he became the resident counsel of the Cherokee and Creek Nations.

In July, A. D. 1891, the term of the Honorable John R. Thomas having expired, he was succeeded by the Honorable Chas. W. Raymond, of Watseka, Illinois.

Afterwards by an act of Congress the Northern District was divided into two districts, the Western District being created. The Northern District comprised the Cherokee and Quapaw country, and the Western District the Creek and

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Seminole country. Judge Raymond was assigned to the Western District and Judge Gill to the Northern District. R. P. Harrison, of Illinois, was appointed as clerk of the Western District.

United States Court was held at the time of the admission of the Indian Territory into the Union, as follows: In the Northern District at Miami, Sallisaw, Pryor Creek, Vinita, Claremore, Nowata and Bartlesville; in the Western District at Muskogee, Wagoner, Tulsa, Sapulpa, Okmulgee, Wewoka and Eufaula; in the Central District at South McAlester, Poteau (in place of Cameron), Antlers, Atoka and Durant; and in the Southern District at Ardmore, Pauls Valley, Purcell, Chickasha, Duncan and Ryan.

On April 28th, A. D. 1904, by an act of Congress, four additional United States judges were provided for the Indian Territory, not to be members, however, of the Court of Appeals, and were appointed as follows: Judge W. R. Lawrence, of Illinois, for the Northern District; Judge Louis Sulzbacher, of Missouri, for the Western District; Judge T. C. Humphrey, of South McAlester, Indian Territory, for the Central District, and Judge J. T. Dickerson, of Kansas, for the Southern District. Soon thereafter Judge Lawrence succeeded Judge Raymond of the Western District, and Judge L. F. Parker, Jr., of Vinita, Indian Territory, Judge Lawrence as judge of the Northern District. There were no further changes in the personnel of the judiciary until the advent of Statehood.

At intervals the following judges served as chief justice of the Court of Appeals, in the order named: Stuart, Springer, Clayton, Townsend, Gill, Raymond and Gill.

The government of the Indian Territory was anomalous, in that there was neither any local legislative body, nor any local executive officer, and all laws for its government were enacted by the United States Congress, and the people were practically under the government of the judiciary and the Union Agency at Muskogee, Indian Territory. The Honorable Robert L. Owen, now United States Senator, from Muskogee, was agent from 1885 until 1889, Dr. Leo E. Bennett, of Fort Smith, Arkansas, from 1889 until 1893, and the Honorable Dew M. Wisdom, formerly of Arkansas, from 1893

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until 1899, when he was succeeded by the Honorable J. Blair Shoenfelt, of Wyoming, who was succeeded in the year 1906 by the Honorable Dana H. Kelsey, the present incumbent.

Twenty years have passed away, and now that portion embraced by what was Oklahoma Territory is thickly populated, having a population of at least eight hundred thousand souls, and the Indian Territory has a population in like number, and practically all of its lands are allotted and a great portion of the Indian Territory is alienable.

The white man and the red man, both as citizens of the United States, are taking up the burdens in this new State like the Puritans did in New England, the Dutch in New York, the Cavaliers in Virginia, the Huguenots in South Carolina, and the Oglethorpe settlers in Georgia, to put into application the highest concepts of citizenship and the greatest endeavor to develop this new State.

The carnival of crime and lawlessness resulting from the peculiar conditions of the country, drawing the worst criminals from all sections of the nation, is past. The efficacy of the power of the law to suppress crime has been demonstrated. The criminal has either been apprehended and incarcerated or executed, or driven from our borders, or the supremacy and efficacy of the law or a quickening conscience has awed him and caused him to forsake the evil of his way, so that crime shows its head in no more menacing or aggravating from in this new State than in the average other western or southwestern State. But for the good and honest and brave men that migrated and settled here, and aided and supported the officers of the law, such would not have been possible or practicable. The people of the older States do not have a proper appreciation of the fact that this is neither a country of lawlessness, nor filled up with a lot of cut-throats, grafters and thieves. Naturally we have dishonest men here. We have bad men here, just like they have in New York and Virginia, Massachusetts and Georgia, Ohio and Louisiana, and the conditions ofttimes are inviting for graft; but it is no more supported by public sentiment nor winked at in this State than it is in the older States named. The zeal and desire for Statehood was the craving of the Anglo-Saxon for local self-gov-

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ernment; that he might be ruled by laws in the making of which he had a participation. And may one of the last efforts of commonwealth-building in this Republic be one of the best.

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JUDGES OF THE INDIAN TERRITORY

HON. JAMES M. SHACKELFORD,
First United States Judge in the Indian Territory

HON. CHARLES B. STUART,
First Chief Justice United States Court of Appeals of the Indian Territory

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THE INDIAN TERRITORY.

JUDICIAL BIOGRAPHIES.

HON. CHARLES B. STUART.

Second United States Judge of the Indian Territory, 1893. First Chief Justice of the United States Court of Appeals of the Indian Territory, 1895, and First United States Judge for the Central District of the Indian Territory.

BY R. L. WILLIAMS, CHIEF JUSTICE OF THE SUPREME COURT OF OKLAHOMA.

He was born on April 4th, 1857, in Mechlenberg county, Virginia, near the town of Boydton, the original seat of Randolph-Macon College, which was afterwards removed to Ashland, Virginia. His grandfather and grandmother on the paternal side, John Stuart and Lucy Horne, being of Scotch-Irish descent, came to Virginia from England. His grandfather and grandmother on the maternal side, Edward Toone and Mary Wilson, came to America from Scotland. His father and his father's elder brother, Charles B. Stuart—after whom he was named—removed to Louisiana from Virginia when he was a child, both being educators, having been professors in the State of Virginia prior thereto. They located at Mannsville, Louisiana, where the Methodists' State College is located, and became president and manager of that institution, having charge of same for about twenty years. He went to the State schools of Louisiana until his father died in 1873. His uncle's and his mother's family then removed to Texas, and he returned to Ashland, where he received his academic education at the Randolph-Macon College.

He began the practice of law at Marshall, Texas, as assistant attorney of the Texas-Pacific Railway Company. Afterwards he removed to Gainesville, Texas, where he resided until he came to the Indian Territory. Whilst there the following attorneys, who have become distinguished in their profession and in the affairs of their country, were associated with him in the practice of law, to wit: Joseph W. Bailey, afterwards a member of Congress and now a member of the United

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States Senate from Texas; Yancey Lewis, afterwards Judge of the United States Court for the Central District of the Indian Territory, Professor of Law and Dean of the Law Department of the University of Texas; J. L. Harris, who removed from Gainesville to Dallas and founded a law firm, and obtained a clientage prior to his death that even yet remains as a monument to his ability, capacity and integrity. During all these associations at Gainesville, Judge Stuart was the senior member of the firm.

On February 3d, 1883, John E. Stuart, his oldest brother, to whom he was deeply attached, became very sick at Marshall, Texas. A telegram was sent by another brother, G. W. Stuart, to him at Waco, Texas, where he was at the time, announcing the serious illness of this brother and asking him to come on the first train. This telegram was not delivered to him until some time after his brother was buried. He informed the telegraph authorities that if they would discharge the employees who were the cause of the delay he would not bring suit; that he intended to punish those that were responsible in some way for the wrong. At that time he was quite a young lawyer. He consulted with some of the ablest lawyers of the State of Texas, among whom was the Honorable George Clark. They all discouraged him, advising him that he could not recover. Notwithstanding, he brought his action in the District Court of Harrison county, Texas. In Stuart vs. W. U. Telegraph Co., 66 Texas, p. 581, the case is reported The opinion of the court being delivered by the late Judge Sawnie Robertson, wherein the doctrine was the first time announced by the Supreme Court of Texas that mental suffering, caused by and consequent to the doing of a wrongful act is the principle of liability, whether the mental suffering is an instance of bodily pain or not. That case has been uniformly followed by the courts of the State of Texas from that day until this, and is now the doctrine of many other American States, in some by virtue of the decisions of the highest court of the State, in others by statute. "The doctrine announced in this decision may not be the better and the sounder one, but to say the least it is the more human and more in accord with a high conception of concrete justice."

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This case has probably cost the telegraph companies of Texas not less than one-half million dollars.

In the case of the Gainesville, Henryetta & Western Railway Company versus Hall, 78 Texas, p. 169, he was leading counsel, wherein the doctrine was first announced in that State that where, in the construction of any works, there is a physical interference with any right, public or private, which the owners or occupiers of the property are by law entitled to make use of in connection with such property, and which gives an additional market value to such property, apart from the uses to which any particular owner or occupier might put it, there is a title to compensation if by reason of such interference the property, as property, is lessened in value.

The case of Gainesville National Bank, et al., vs. Bamberger, et al., 77 Texas, p. 48, is another pioneer case, not only in Texas, but almost in American jurisprudence, wherein the principle is announced that when insolvent merchants, for the purpose of maintaining their credit, make false statements to a commercial agency as to their financial ability and condition, expecting their statements to be circulated and acted upon, and having by means thereof made a purchase of goods, the seller discovering the fraud can reclaim his goods, even against an attachment levied by other creditors upon them. This is a familiar doctrine now in practically every State. Judge Stuart was leading counsel for the side in that case that contended for this rule.

In the year 1893 he was appointed by President Cleveland as United States Judge for the Indian Territory, being the second person to occupy that position. By the Act of Congress of March, 1895, three judicial districts were created for the Indian Territory, and by the terms thereof he became the Judge of the Central district of that territory, and the first Chief Justice of the United States Court of Appeals of said territory. Within a few months he resigned his place on the bench, and became general attorney for the C., O. & G. Railway Company, which position he held continuously until this company was acquired by the Rock Island system, and thereafter until he resigned in the year 1907, he was special attorney for said system in the Indian Territory and Arkansas.

Whilst he was on the bench, many important and anoma-

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lous questions came before him. One of the most moment to the people of said territory was probably that of the case of R. Sarls against the Choctaw sheriff, wherein the latter was restrained from selling certain brick buildings in the city of South McAlester as the property of the complainant, on the ground that he was a non-citizen and not entitled to construct and own such improvements, even within towns, on the Choctaw domain.

Many times within the history of English jurisprudence the courts have been confronted with questions without any precedent for a guide, but in all instances the Judges, in the progress of such civilization for the government of the citizens and welfare of the public, have blazed the way. In this instance, he was without any precedent to guide him, but he met the exigency with the same fortitude, learning, discrimination, and courage as his predecessors in the growth of the English law. And probably this decision had more to do with paving the way for the building and population of towns within the Choctaw and Chickasaw Nations than the act of any other one person.

He was the second president of the Indian Territory Bar Association, and the first president of the Oklahoma Bar Association, which was formed by the consolidation of such associations of Oklahoma and Indian Territory. At the present time he enjoys a large clientage, his firm representing by special retainer probably more coal companies than any other in the State, and having a considerable general practice.

Whilst his career on the bench was creditable, marked with integrity and characterized by ability, yet if we were called upon to say in what field he signally excels, we would say that it was in the forum, rather than on the bench. In the realm of thought, in incisive, logical and concise discrimination, with such a magnetic and persuasive power as to overwhelm others and induce them to agree with him, he has no superior, and but few equals.

He is one of the greatest lawyers of the Southwest within our acquaintance; he probably has no superior as an advocate in the trial of a case. At the same time having very few, if any, superiors as an all-around attorney. Born in an environment of education and culture; endowed by nature

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with a masterful, logical mind, when thrown into contest with the great lawyers of the country, he has no reason to acknowledge any superior. Not only is he great in the civil branch of the law, but in the criminal trials. The accused who is so fortunate as to retain his services in his behalf has occasion for a renewal of hope that he may escape the pains and penalties of the law.

Courteous, logical, concise, forceful, discriminating, masterful and eloquent, possessing not only a comprehensive knowledge of all its branches, but with a wonderful perception also of the probative force of testimony, he stands in the forum like Saul of old, commanding the admiration of all. Socially a prince, ethically to be emulated—long after he has passed from this earthly home—he will be admired by those who come after him.

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CHIEF JUSTICES OF THE INDIAN TERRITORY

HON. C. W. RAYMOND

Ex-Chief Justice United States Court of Appeals

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THE UNITED STATES COURT OF APPEALS FOR THE INDIAN TERRITORY.

HON. C. W. RAYMOND, EX-CHIEF JUSTICE.

BY HON. JAMES A. HARRIS, OF WAGONER, OKLAHOMA.

Judge C. W. Raymond was born at Dubuque, Iowa. His boyhood days were spent in the vicinity of Cincinnati, Ohio. At the age of eleven his mother moved to Illinois, and the boy was placed upon a farm in Woodford County, where he worked for his board and clothes. At fifteen he was a farm hand at twelve dollars a month. Afterwards we find him making his way in securing an education as a factory hand, a country school teacher and employee in the county offices.

His father was captain of Company D. 52d Ind. Vol. Inf., holding a commission in the Federal Army under Gov. Oliver P. Morton. He was killed at the battle of Nashville.

Young Raymond was admitted to practice law in the Supreme Court of Illinois in 1886, and in the U. S. Supreme Court five years later.

In 1901 he was appointed Judge of the U. S. Court of Indian Territory by President McKinley. In 1902 he was recommissioned by President Roosevelt. In 1903 he was made Chief Justice of the United States Court of Appeals for Indian Territory, and held that position until the expiration of his term of office.

Judge Raymond in performing his duties as a Federal official made a record for great energy in the dispatch of business, and the fact that out of over seven thousand matters disposed of during his term of service there were but five reversals of his decision speaks well for his ability as a lawyer and the conscientiousness of his administration.

That he was a clean and honest Judge is conceded. Many of the cases decided by him involved large interests and affected thousands of acres of Indian Territory lands. In the case of Indian Land and Trust Company vs. Shoenfeldt, his decision that all leases of lands belonging to Indian minors were void unless made by a legally appointed guardian restored

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thousands of acres to minor children which had been leased by the father for a mere trifle per acre to land companies without his having been appointed guardian or giving bond to account for the income. Much criticism from the big land and trust companies which were acquiring Indian lands followed this decision, but it was affirmed on appeal to the U. S. Supreme Court.

In Tate vs. U. S. Indian Agent he decided that lands conveyed by an Indian citizen before the removal of the restrictions was likewise void, thus holding for naught hundreds of conveyances of lands made by Indians before authorized by Congress so to do.

In Buffington, chief of the Cherokees, vs, the Daws Commission, Judge Raymond denied the application of the Cherokee Nation for an injunction restraining the commission to the five civilized tribes which was making partition of the 20,000,000 acres, known as Indian Territory among its citizens, from allotting lands to the Cherokee Freedmen, holding that under the treaty of 1866 between the U. S. and the Cherokee Nation Cherokee Freedmen shared equally with the Cherokee citizen in the tribal property, and as no appeal was prosecuted the decision became a rule of property affecting thousands of acres in the Indian Territory.

In the celebrated case of Porter vs. Brooke he laid down the law of descent and distribution in the Creek Nation, theretofore unestablished, which has been affirmed by the Supreme Court and now recognized as good law.

In the case of M., K. & T. Ry. vs. Bullett, the Indian Allottee, in which the railroad sought to lay the precedent under a land grant from Congress in 1866 to acquire 3,000,000 acres, valued at $75,000,000, he announced that he would hold the demurrer filed by the Government on behalf of the Indian allottee to the bill to be well taken.

The bill was then dismissed and filed in the U. S. Supreme Court, where the railroad was represented by Joseph Choate, ex-Ambassador to England. The Supreme Court again sustained the demurrer of the Government to the bill. The matter is now pending on bill filed by the railroad in U. S. Court of Claims at Washington.

In settling the many complicated questions incident to the

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settlement of a new country he worked diligently for a rightful solution, and the fact that his decisions were sustained proves his ripe judgment as a jurist.

Not only was he a ripe scholar, but so fair in his rulings was he that Mr. Maxey, a prominent Oklahoma lawyer, is an authority for the statement that Judge Raymond could try a lawsuit against himself and the adverse party be perfectly satisfied with the rulings of the Judge.

Upon the announcement of the decision in the case of the Indian Land and Trust Company vs. the Indian Agent, the local newspapers made the statement that Judge Raymond's decision had made his own property less valuable by $20,000. The item came to the notice of Mr. Bryan, who, commenting upon the statement in the Commoner, said: "Whether the decision was a good or faulty declaration of the law was of less moment than the fact that the Government had found a servant on the bench who was big enough and honest enough to decide against his own interests."

In 1904 he was unanimously chosen from his district as a delegate to the Republican National Convention in Chicago.

In 1907 he was appointed by Gov. Frank Franz as a delegate to represent the Territory at the Deep Water Convention at Memphis, Tenn.

In politics Judge Raymond has always been a Republican and a great admirer of ex-President Roosevelt and Mr. Taft. He has made quite a number of addresses in the new State and is credited with being an effective speaker.

Judge Raymond is a business man, as well as a lawyer, and finds enjoyment in the management of his large farming interests, as well as with his books.

(To be continued.)

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PSYCHOLOGICAL.

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as the organ of the Psychological Section.

The Psychological Section of the Medico-Legal Society has been organized, to which any member, Active, Corresponding or Honorary, is eligible on payment of an annual enrollment fee or dues of $1.50.

Any student of Psychological Science is eligible to unite with the Section without joining the Medico-Legal Society on an annual subscription of $1.50, payable in advance and receive the MEDICO-LEGAL JOURNAL free. The officers for 1909 are as follows:

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EDITORIAL.

THE SUPREME COURT OF THE STATES PROVINCES AND TERRITORIES OF NORTH AMERICA.

The following letter has been and will be sent to the bench and bar of the States named:

MEDICO-LEGAL JOURNAL,

Office of the Editor, No. 39 Broadway,

New York, December, 1908.

Dear Colleague: This Journal will not wait for the completion of the judicial history of the State of New York, but will continue the judicial history of several of the States at the same time that the work is going on in other States now ready for the press. Several States have been selected for rush work and your State is one of those in which energetic efforts will be made to complete as early as practicable its judicial history. The effort will be confined at present to the few States named in which the co-operation of the bench and bar of each State is earnestly solicited.

The new State of Oklahoma has, through the energetic support of the Chief Justice, Hon. Robert L. Williams, been the first to complete the biographies and portraits of the present bench of the Supreme Court of the State, and of the Court of Criminal Appeals recently organized in the youngest State of the American Union. The judicial history of the Territories Indian and Oklahoma form a part of the work which will be completed as now expected early in 1909. Advance sheets of the work done in Oklahoma will be sent to the bench and bar of both the Dakotas, Colorado, Wyoming, Washington, Nevada, Nebraska, Idaho, Montana, Louisiana, and perhaps a few others. The advance sheets of the work in Oklahoma and such of the other States as respond first will be forwarded to the judges of the Supreme Court of the States then in advance, and to such members of the bar as will aid in our endeavor.

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The editor appeals to the profession to assist him in this work because he cannot do so successfully and quickly, without the earnest effort of both bench and bar, and he wishes sketches and portraits of all the men who have been on the Supreme Bench of those States during Statehood as well as of each in its territorial life.

It is hoped that the work of a like nature may go on in the States where the Journal has in the past taken up the labor, and where it is now progressing.

Awaiting your early response, I remain, with high personal regard, Faithfully yours,

CLARK BELL.

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THE AMERICAN INTERNATIONAL CONGRESS ON TUBERCULOSIS OF 1909.

The annual meeting of this body, announced for June 1908, which had been unanimously adjourned from Chicago to the fall of 1909, is likely to be further adjourned for one year, at the annual meeting, for which notices have gone out and announced for September, 1909, at New York City.

The failure of the American International Congress at Washington on Tuberculosis to reach any conclusion on the "Relation of Bovine to Human Tuberculosis" upon which the world of science could unite; the wide division of sentiment and opinion, as to the announced opinions of Dr. Koch on this subject, in which the great preponderance of American physicians were decidedly against the views supported and announced by Dr. Koch; had resulted in no definite action by resolution. It is conceded by the almost unanimous voice of the Council and Executive Committee that the wiser course is to wait further investigation and adjourn again for one year.

The papers by Prof. Bombarda, of Lisbon, and Prof. Dr. von Schroen, of Naples, prepared for the June Congress, were published in our last number or issue. The annual meeting is called for February 24th, inst., at New York City.

MEDICAL EXPERT EVIDENCE.

This subject arouses intense interest in the minds of the medico-legal jurists of all the professions. The symposium of opinions, and the discussion before the Medico-Legal Society, is continued and men all over the land are giving the subject attention. It is of such commanding importance that time for full consideration of it in all its bearings seems quite inevitable. The committee of the Medico-Legal Society is very strong on the legal side. The chief justices of the Supreme Court now sitting on the bench of their respective States in Maine and Vermont; Judge Charles G. Garrison, of the Supreme Court of New Jersey; Hon. John R. Nicholson, chancellor of the State of Delaware; Hon. Amasa J. Cobb, of the Supreme Court of Georgia, and ex-Judge A. T. Clearwater, of the Third District of New York, whose term has lately expired, who takes a lively interest in the subject, with the editor

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of this journal as secretary, and so far as sitting judges are concerned, is perhaps the strongest committee ever named on a question of the importance this subject has recently assumed.

Ex-Judge Clearwater is a member of the State Bar Association of New York, whose members are deeply interested in the subject. The idea of the bill proposed by Chief Justice L. A. Emery, of Maine, that the court in homicidal cases where the defense is insanity arises should have authority on motion of either side to name a committee of the men who should act as experts on the trial, as selected by the trial judge, has been generally accepted, and the committee have been understood to be probably in favor of that view, but have felt that it was wise to be slow and not force legislation, or public opinion, at the coming session of the New York Legislature.

THE ALCOHOL QUESTION.

This subject has received an enormous stimulus by the public agitation going on throughout the South, and especially in the rural districts of New York and of the other States at the polls on the question of license.

An apparently wide spread revulsion of the public sentiment against the sale of liquors has been pronounced by the people at the fall elections. An international congress is to be held in London this year on this subject in July and a strong movement is now being made that one be held in the United States next year, and the Medico-Legal Society will strongly favor such an international congress in New York City in 1910.

PSYCHO-THERAPEUTICS.

The interest in the public mind manifested so conspicuously last year seems to have increased. The symposium on this subject and the discussion elicited was very strong. The contributions that appeared in the Medico-Legal Journal were only a small part of what reached the society and much of it is in type. Unpublished papers by Chas. Brodie Patterson, Mrs. Vance Cheney, Andrew McConnel, Drs. H. S. Drayton, of New York; R. I. Nunn, of Savannah, Ga.; J. Thornton Sibley, of New York, and of many others are still awaiting publication and these contributions if published as a brochure would make a large volume already received.

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THE PRESIDENCY OF THE MEDICO-LEGAL SOCIETY.

The editor of this Journal declined to accept a renomination at the November meeting of the society. He is grateful to his friends, and to all who have aided him in his labors for the last quarter of a century, during which he has been some times acting in the duties of that office.

His professional labors were increasing, and he could not lay down his editorial work on the Journal, and while he does not abate his interest in the society, nor question its importance, he believes that a new and energetic executive in charge of the presidency would be for the good of the society and the science, and make lighter his own labors, already too heavy to be borne. Again he felt it a duty to devote his time to the practice of his profession and to the pressing duties of the hour in this period of the national life and progress, and feeling a great renewal of his health and strength, after a severe illness, he decided to again take up more actively professional work on his return from a long-earned vacation to town in November last.

He will devote special attention to such cases as may be committed to him by his old friends and clients, and would be glad to co-operate with some ambitious and energetic member of the bar who would take an office in his suite; take charge of such cases as were placed in his hands, and share in the business and extend the practice into all fields of professional work.

THE ANTI-VIVISECTION CRAZE.

The ladies who had the center of the stage last year in assaulting the medical profession, not satisfied with their defeat, are renewing the fight before the Legislature of 1909. They have recruited their army. This crusade has a psychological side, which explains as well its renewal as its real animus. There is a glare and brilliancy in it, beinging them prominently before the public, which accounts for their fever. It is intermittent in character. It is doubtful, if secretly these ladies really regard the medical men, who are experimenting upon animals, as the monsters of cruelty they have claimed last year

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more than this year. A picture to attract public attention must be a little lurid—it was painted in vermillion last year—and it signally failed in its purpose and properly, so we understand it to be toned down and softened this year. Sentimentality is a peculiar feature, and the same lady who has the dead body of a bird for her pleasure on her hat, or its feathers in her plumes, never thinks of the suffering of the bird, and would shudder if the victim was a dog or a guinea pig.

The scientific world, devoting its talent and ability to studies in the elements of reliable knowledge by animal experimentation listens with amazement at the prodigal assaults made by their fair associates upon honored names in scientific research.

The Legislature is not a body of men who are likely to be affected by gush on practical subjects affecting the world of science or the serious investigators.

The medical profession is entitled in this matter to public sympathy and popular protection. They are as a body humane, philanthropic, and it is a perfectly safe profession for the exercise of this trial confided in them. If legislation was necessary at all they would be the first to suggest and demand it.

This is really an assault upon the characters and the well earned and won confidence this profession has deserved, and for ignorant sentimentalists, falsely so-called, to suggest regulations as to the methods of research they have adopted, where so much has been accomplished in scientific knowledge in nearly every department of scientific investigation, can hardly be sufficiently condemned.

The action of the Medico-Legal Society and its attitude was resolute and insistent that no consideration be given to this crusade or its renewal.

The Law and Legislative Committee of the Society has limited its action to laying before the legislative committees its views and action of last year, and the papers contributed to the discussion at that time by Drs. J. Mount Bleyer, R. W. Shufedtl and Clark Bell, Esq., insisting that no legislation was either called for or necessary upon this subject.

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THE CASE OF MARSH AND HYDROPHOBIA.

The absence of prominent members of the committee to whom this case was referred has prevented further consideration of the case at present.

The question of rabies is one of increasing interest and is being considered in the case. The article read before the Medico-Legal Society by Dr. Van Giesen, and one by Dr. Sturge, of Scranton, have not yet appeared. The subject is very interesting, and is before the alert students of the Medico-Legal Society.

ANNOUNCEMENT.

MEDICO-LEGAL SOCIETY OF NEW YORK.

The advance sheets of the paper of Thos. Bassett Keyes, M. D., of Chicago, on "*The Renewal of Life,*" read before the Medico-Legal Society, from the Medico-Legal Journal, are sent out to you for discussion.

It is hoped that the study will stimulate debate and bring out more fully the conditions which are conducive to the attainment of health and longevity.

With the above in view all members of the Medico-Legal Society and everyone who is interested, and especially every healthy, vigorous person who has reached the age of sixty or over, is invited to take part in the discussion.

Those who have reached an advanced age are particularly urged to reply to Dr. Keyes by letter to the following questions, the answers to which will form part of the discussion.

1. What are your habits, particularly as to diet and living?
2. How much fat, butter, or oil have you been in the habit of consuming and do you like fats?
3. Are you of a long lived faimly and what are the habits of your ancestors?
4. What suggestions can you offer for the attainment of a long, healthy life?

Replies to the above questions should be addressed direct to THOS. BASSETT KEYES, M. D.,
92 State Street, Chicago.
Or to the Medico-Legal Journal, 39 Broadway, New York.

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The paper on the "Renewal of Life" which is sent out for consideration is a preliminary paper from him. In this debate Dr. Keyes will introduce later a dissertation ensembling his vast amount of research and interesting original work relative to the attainment of longevity, upon the building of constitution and the changing of temperaments from those of low vitality to the highest degree of health.

All communications not embodied in the questions and all matters relative to the Medico-Legal Society and Journal should be addressed to the office of the Medico-Legal Journal, or

CLARK BELL, Esq.,
39 Broadway, New York City.

THE JUDICIAL HISTORY OF THE INDIAN TERRITORY.

The March number of this Journal will continue the Judicial History of the Supreme Court of the State of Oklahoma, with the biographies of the judges of that bench; the Judicial History of the Supreme Court of the Indian Territory, from its organization to Statehood, with biographies and portraits of the bench of that territory.

Chief Justice, the Hon. Robert L. Williams, has contributed important aid on this work. Nearly all the portraits of the bench of that tribunal have been secured.

Chief Justice Williams has also contributed a unique and valuable historical statement to that work on the judiciary of the Five Civilized Tribes, each Nation having its separate existence, boundaries, jurisdiction, government and judicial system, with separate constitutions, guaranteed by the government of the United States under formal treaties with the several Nations.

These Five Civilized Tribes were in fact, by legislation and treaty action, recognized as separate and distinct Nations, viz: The Cherokee Nation, The Seminole Nation, the Chickasaw Nation, the Choctaw Nation, and the Creek Nation.

An effort will be made to secure the portraits and biographies of all the judges of the territories of the Indian Territory and of Oklahoma Territory prior to Statehood, and of the more conspicuous men upon the bench and who composed the judiciary of the Five Civilized Tribes or Nations.

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TRANSACTIONS.

MEDICO-LEGAL SOCIETY.

The following announcement was made for the December meeting, 1909. Announcement of the refusal of the President to accept a renomination for the Presidency:

MEDICO-LEGAL SOCIETY.

The annual meeting of the Medico-Legal Society will be held at the Waldorf Astoria, Fifth avenue and 34th street, on Wednesday, December 16th, 1908, at 8 o'clock p. m., which you are invited to attend and bring a friend:

THE ORDER OF THE EVENING.

1. Papers by Prof H. S. Eckels, of the Philadelphia School of Embalming, entitled: *"Elimination of Poisons by Embalmers That Interfere With the Detection of Crime."*
2. *"Human and Bovine Tuberculosis, Involving the Use and Abuse of Tuberculin."* Should it be used on man, or animal in human or bovine tuberculosis?

The president will submit the foregoing questions to the society for discussion and will ask for replies from those unable to be present; from prominent members of the professions; from officers and members of Boards of Healths of State and County Medical Societies.

The adjournment of the late Tuberculosis Congress at Washington without action on this supreme question of the hour in *"Preventive Legislation Against Tuberculosis,"* after a discussion in which Prof. Koch's views on the relation of bovine and human tuberculosis were combatted by a large majority of the medical profession on both sides of the Atlantic makes the problems now before the world of science in this field of forensic medicine by far the most vital question of the hour.

The President will ask for contributions to this discussion which he will open at the session, and continue the same if it meets the pleasure of the body.

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By unanimous action of the society the sending out of an election list required by the by-laws is dispensed with, and the nominations reported by the committee will be sent to members whose dues are paid, who can vote by mail in person or by proxy. The polls will close at 9 p. m.

3. The following Symposiums are still open, to which contributions are solicited from members and others, viz.:

Psycho-Therapeutics,
Alcohol as a Diet or Medicine,
Medical Expert Testimony.

(The discussion of papers presented to be continued and to be referred to the Select Committee.)

Longevity and Its Relation to Usefulness in Old Age.
Centenarians.

4. Election of officers for the ensuing year, in charge of tellers to be appointed by the chair.

The President at the November meeting declined a renomination for the Presidency at this time, for reasons personal to himself, and because the duties of the office would interfere with his law practice, to which he proposes to devote more of his time and attention, but has consented to accept the office of Treasurer, and continue his earnest interest and aid in the success of the Society.

Papers contributed will appear in the Journal and in the brochures.

By order of the President.

J. R. ABARBANELL, Secretary.

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Neurological and Mental Diagnosis. By L. Pierce Clark, M. D., and A. Ross Diefendorf, A. M., M. D., of New York. (McMillan & Co., of the chief American cities and of England and its chief colonial cities, 1908.)

This work was written and published by the American House of this enterprising firm by two of the most energetic and active of the younger medical men, in close touch with and abreast of scientific lines of study, and identified with the higher, most able, and advanced schools in New York City, as well for the student as the general practitioner, who wishes to lay his hand at once on any question within its scope. It is a praiseworthy attempt to lay down a concise, definite method of procedure for both mental and nervous diseases, along strictly scientific lines, for each in private or in hospital practice, in accordance with the recognized lines of modern medicine as taught at present in the best schools.

This work is divided in the volume—the teaching on neurological methods is by Dr. Clark, and on mental examination is by Dr. Diefendorf. Dr. Clark has had experience in the New York Hospital practice, and is a prominent member of the American Neurological Association. Dr. Diefendorf, in psychiatry in Yale University, has had special service in the Connecticut Hospital for the Insane, and holds a high place in the State and National Psychological Associations. They are strong men, stand well, and are speaking from an actual working experience.

The work will be appreciated by the profession and is sold at popular prices, at $1.25, so that it is not burdensome to the student or the practitioner. No medical man will regret its place on his library shelves.

BOOKS, JOURNALS AND PAMPHLETS RECEIVED

MAGAZINES

Unexpected and unavoidable delays in the issue of this number, which the publisher has been unable to prevent or avert, have decided the editor to carry these headings to the March number, which will follow this number immediately, and make the volume more complete and perfect.

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SUPREME COURT

The Judicial History of the State of New York

BY

CLARK BELL, ESQ., LL.D.,
of the New York Bar

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The Court at General Term;
The Court in Appellate Division.

With Portraits and Sketches of the Chief and Associate Justices of the Supreme Bench of the State, arranged in Judicial Districts and in the Several Judicial Districts and Departments.

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THE

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SAMUEL P. GOLDMAN, ESQ.,
of the New York Bar.

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MEDICAL EXPERT TESTIMONY.*

BY SAMUEL P. GOLDMAN, ESQ., OF THE NEW YORK BAR.

The subject of medical expert testimony and its abuses, because of the prominence of certain supposed miscarriages of justice within recent days, has been brought all too prominently to the attention of the public. That there are abuses is now beyond question, but the general dissemination of meagre information on the subject should not lead to hasty, ill-advised, or poorly considered criticism. The laity naturally look to lawyers to remedy the abuse. Suggestions have been made in numerous quarters. Judges in the various States have put in concrete form their proposals of legislation upon the subject, and it seems to the writer that the time is now ripe for a calm consideration of the subject, and all its circumstances, to the end that some definite and practical step may be taken which will attack the abuse, if not in its entirety, at least in its most virulent form.

It will be noted first that medical expert testimony is used in cases other than criminal prosecutions. In a large class of litigations, such as will contests, actions to establish wills under the Code, partition suits and ejectment suits, well known to the civil law, the competency of a person to make a valid testamentary disposition of his property comes into question. In these cases the courts allow evidence to be given of acts and declarations of the deceased, and then upon a hypothetical question, embodying a fair resume of the evidence presented to the Court, a medical expert may be asked whether or not, in his opinion the acts so testified to were or were not rational. In some cases, again, lay witnesses are permitted to answer an interrogation relative to the rational or irrational character of the acts and declarations of the person whose mental capacity is under inquiry.

Again, in cases based upon a claim of fraud, duress or undue influence, the courts have allowed medical expert testi-

*Read at the Medico-Legal Society at the Waldorf-Astoria Hotel, on March 17th, 1909.

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mony regarding the condition of mind of the person whose act is sought to be voided. In these cases also, the testimony has been limited to the acts and declarations of the person, and medical experts have been permitted to characterize such acts and declarations. Of course, in both of the classes of litigations just mentioned, where a physical examination of the subject has been had, the medical expert making such examination has been permitted to testify to what he observed at such time, and upon laying the proper foundation, he has been permitted to state the conclusions which he drew from such observations.

The third important group of litigations in which medical expert testimony has been employed is known as accident or negligence cases. Medical experts have been permitted to testify not only to their opinions as to the effect of specific injuries proven upon the trial, but, likewise, as to the character of these injuries with regard to the permanent or temporary disablement of the person injured.

In these civil cases, medical experts have been largely employed for many years, and there can be no doubt that juries, as well as judges, have been influenced, and perhaps largely influenced by their testimony, in the determination of the various controversies before them, but it can not be stated that this privilege of presenting expert testimony, or more properly, this use of expert testimony, has become an abuse. In the cases where property rights are involved, the conflict has been no less keen than in the criminal prosecutions to be referred to hereafter. But it seems, and no doubt this statement will be verified by the majority of trial lawyers, that the employment of this kind of proof has worked out with sufficient satisfaction.

There are any number of reported cases to which reference might be made upon this subject. The writer was fortunate enough to be trial counsel in the matter of the contest of the will of Caroline Rumpf, deceased, tried before Surrogate Thomas, of New York County, a man of great ability as a jurist and of known fairness and impartiality. In this case but two medical experts were called, and they, strange to say, on behalf of the proponents of the will. These experts

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were men of standing, one of them a professor of general medicine at the Fordham University Hospital and Medical School. They testified to their general observations and stated the conclusions which they drew. The Court seemed to be very well satisfied with this testimony, and delivered its opinion sustaining the will in a most decided manner. An appeal has been taken from this decision, and is now pending in the Appellate Division of the Supreme Court, but there is no doubt that the Appellate Court will sustain the Surrogate's determination.

A case in which the writer was not interested, but which came under his observation, was the contest of the will of a lady of extreme age. Medical experts testified before the Surrogate of Kings County upon both sides of the question. One side declared absolutely that the woman was non compos mentis, and the other side, with equal precision and decisiveness, testified that she was compos mentis. The lawyers in this case, undoubtedly familiar with the ill repute into which medical expert testimony has fallen, sought some way of turning the scales in favor of either of them, and they brought to court, not only the neighbors of the deceased woman, but the tradespeople who dealt with her, the cashier and teller of the bank with which she deposited her money, and all persons who had come in contact with her within a reasonable period before the time of the execution of the will and during a short time thereafter. These laymen were then interrogated as to what they had observed, and in some instances, characterized the acts to which they testified as rational or irrational. This testimony was received by the Surrogate, and was evidently given considerable weight.

Another case with which the writer is somewhat familiar is the case of Harrold vs. New York Elevated Railroad Co., reported in the 24th volume of Hun's Reports, at page 186. This was an action to recover damages for personal injuries. The question before the jury was the permanency of the injuries. In reviewing the case the General Term of the Supreme Court used the following expression: "The amount of damages to be awarded depended upon the degree of credence which the jury should give to the testimony of the experts on the respective sides. No question of the competency of

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these witnesses was raised. They were all of them gentlemn of high professional repute; and yet, on the turning point, namely, whether the plaintiff had sustained a permanent injury, the opinions expressed by the defendant's witnesses were diametrically opposed to those to which the plaintiff's witnesses testified. This contrariety of opinion ought, certainly, to add to the accumulating distrust of the testimony of experts in cases of this kind."

In spite of this apparently insoluble situation, juries seem to master the difficulties, and as a general rule, render satisfactory verdicts. The general notion undoubtedly is that where the conflict becomes so great, as it was for instance in the Harrold case, juries are apt to reject the testimony of experts altogether, and to apply their common sense to the determination of the issues submitted to them.

The common sense of juries is frequently derided by both lawyers and litigants as a vague quantity, but that it should lead juries occasionally to ignore medical experts entirely is no cause for wonder. The attitude of the courts is well illustrated by the case of Dobie vs. Armstrong, 27 App. Div. 520, where the Appellate Branch of the Supreme Court said:

"The experience of courts has demonstrated that the answers of experts, though honestly given, to hypothetical questions embracing pages of assumed and isolated facts covering a long lifetime, about which facts the experts have no personal knowledge, are the weakest and most unreliable kind of evidence in respect to the sanity or insanity of the person inquired about."

So it comes to this, that in civil cases, the use of medical expert testimony, or its abuse, really regulates itself. Lawyers recognize not only the growing distrust, but the actual existing distrust to such an extent that they never fail to bolster up their medical expect testimony with such lay testimony as they know or believe will appeal to the judge or the jury before whom their cases are presented. It is now, therefore, only a truism to say that the matter has regulated itself, so that legislation upon the use of medical expert testimony in civil cases is hardly a necessity.

This situation, however, does not exist in criminal prosecutions. The belief, more or less prevalent in various sec-

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tions of the country that, under peculiar circumstances, one man may be justified in taking the life of another man, has led to the elaboration of a defense to criminal prosecutions wholly without the contemplation of the law. Private revenge can play no part in the jurisprudence of this or any civilized country. The moment a code of assassination is established anarchy reigns supreme.

The most familiar form in which this subject presents itself is what is known as the defense of the unwritten law to a prosecution for homicide, murder. Its method of presentation is this. As the law recognizes no responsibility in an insane man, after wreaking his vengeance, the defendant before the bar of justice sets up the claim that at the moment of its commission he was not mentally responsible for his wrongful act; that is, no matter how sane he may have been before he committed the act, and no matter how sane he became after he committed it, at the time he committed it, his mind was in such a condition that he did not know the moral quality of the act he committed; that he was not able to judge between right and wrong, and, therefore, he should not be subjected to the punishment prescribed by the Penal Code for his transgression.

Whether or not it is necessary for a man whose dignity, whose feeling, whose sense of justice, or what not, may have been outraged, to commit murder before he can recover his sanity may be, or may become an interesting investigation for psychologists. Men dealing with practical sociological problems, however, can recognize but one standard, and that is that each member of the community must exercise that restraint without which communal existence is impossible. So we have this irreducible conflict. The prisoner endeavors to shield himself behind the doctrine of the criminal law that one not mentally responsible may not be penalized for his act; the State on the other hand presses vigorously the proposition that this doctrine of the law has no application to the defendant in the toils, because he was at the time of the act mentally responsible.

The various forms in which insanity is presented as a defense need not be gone into here in detail. Suffice it to say

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that the most frequent form in which we hear of it is what is called temporary insanity; that is, as heretofore stated, sane before the act, sane after the act, but insane at the time of the commission of the act.

This is where the conflict of the experts comes in, and it has not infrequently happened that a number of eminent and respectable physicians will testify one way, and perhaps, an equal number of equally respectable and eminent gentlemen will testify to conclusions diametrically opposite.

Of course, this is only the means by which the defendant is permitted to introduce before the jury the facts by which he seeks to justify his wrongful act, for while the jury may not say that murder by a sane man is justified, they may say that these facts were calculated to produce insanity in the defendant, that they did produce insanity in the defendant at the time of the murder, and that, therefore, their verdict will be "not guilty."

Now, the difficulty seems to lie very largely in this, that a rich defendant is able to employ these expensive experts and the public believes or regards, in the language of Lord Justice Campbell, in the Tracy Peerage Case (10 Clark & Frost, 154-191, decided in 1839) that "the skilled witnesses come with such a bias on their minds to support the case in which they are employed that hardly any weight should be given to their evidence." It has been said, and perhaps the statement is not wholly devoid of truth, that the rich defendant gets experts and the poor defendant gets justice. It is the employment of these experts that now engages our attention, and the efforts of the learned gentlemen of the bar in the various States of this Union have been directed to abating the nuisance, for it is indeed a nuisance, of having medical experts of ability, and even of respectability, testify to diametrically opposed opinions.

The suggestion of the committee upon medical expert testimony of the New York State Bar Association recently submitted at its annual convention, is but one of the steps that have been taken. The legislation there proposed requiring the appointment of from ten to sixty medical experts in the four judicial departments of the State would hardly seem to rem-

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edy the situation. Supposing that the Appellate Division of the Supreme Court in this, the First and most populous department of the State, appoints sixty medical experts; both the State and the defendant's counsel will undoubtedly be able to find one or more among these sixty who will testify the opposite of what others will. This probability of difference of opinion is not diminished by the fact that the State is expected to compensate them, and in an extreme case we can well imagine all sixty of the experts being called to court to give their testimony and opinion. Every defendant charged with the commission of crime in English speaking countries has the inalienable right to call witnesses of his own choosing, and if there is a physician of ability and standing who has not been fortunate enough to receive the appointment of the Supreme Court as a medical expert, whose testimony would aid the defendant, there would seem to be no doubt that his constitutional privilege is violated if he is not permitted to present this witness and his testimony to the jury, upon the same plane that the testimony of any of the sixty experts appointed by the Appellate Division would be presented. Again, as this bill permits the defendant to call such experts as he may choose, whether appointed by the Supreme Court or not, it is difficult to see how any such legislation as is proposed will shorten the trial. In fact, its effect would seem more to the confusion of the jury than otherwise.

The remedy seems to lie in a wholly different direction. In order that the jury may really be assisted in determining the question, there must be some fixed standard of medical expert testimony; it must be non-partisan; the number of experts must be limited, so that the trial will not be unnecessarily prolonged, and so that the jury will not be confused, and freedom and latitude should be allowed for the exercise of the fairest and widest discretion in the regulation of the medical expert testimony in each case as it arises To accomplish this purpose, it would seem that an amendment to Section 658 of the Code of Criminal Procedure would be sufficient. The section, as it now stands, grants the Court, in its discretion, the right to appoint a commission of not more than three disinterested persons to examine the defendant who pleads insanity, and report to the Court as to his sanity at the

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time of the commission of the crime. (People vs. McIlvane, 125 N. Y., 109.) The proposed amendment makes it mandatory for the Court in which the indictment is pending to appoint this commission and requires that the commission shall report with their opinion upon the sanity of the defendant at the time of the commission of the crime. The opinion of the commissioners shall thereupon be presented to the jury and both the State and the defendant shall be given the privilege of cross-examining such commissioners in regard thereto.

This proposed amendment would seem to embody a correction of most of the evils which surround the subject. The discretion of the trial judge as to the appointment of commissioners is not confined to medical men, although it is fair to assume that the Court will select three physicians unless the case is peculiar and calls for other selection. Their impartiality will hardly be brought into question, as they will be paid by the county in the same manner as commissioners are paid under Section 658, as it now stands. Being appointed by the Court they will not be partisan, and not being the selected witnesses of either the prosecution or the defense they will not be influenced by the fever of belligerency or the zeal of advocacy. Fortified with evidence of this character, trial judges will be less prone to admit specious and ill-considered testimony, and as the trial counsel contemplates the overwhelming effect of the judgment of such impartial experts as are here proposed the temptation to proffer or countenance such specious testimony will be reduced to a minimum.

The limitation of the number of experts to be appointed by the Court to three is, of course, wholly arbitrary and has been fixed upon after a consideration of a large number of cases of public interest within the last two decades. It is safe to say that a mere multiplication of witnesses will not materially aid a jury in reaching a conclusion, while it must be remembered that if the view of these three experts appointed by the Court is different to the view of the experts of either the State or the defense, testimony of additional experts will undoubtedly be presented, so that the number of experts who may possibly testify will be doubled or trebled.

The appointment of the experts by the trial court would seem to have considerable advantage. The function of the

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Appellate Division as a court of review should be maintained. When a case is brought before them upon appeal, it is but fair that they should consider the testimony of the medical experts upon the same plane as they would the testimony of other witnesses. And, as it is only natural that the higher court should look with more favor on the testimony of its own appointees, such uniform consideration might not always be given. Again, the selection of medical expert witnesses by the trial court will undoubtedly result in as good a choice as if made by a higher court, for, the opportunity of both the State and the defense to select the foremost physician as their own witness will undoubtedly keep the Court mindful of the necessity of choosing such men only as may fairly be ranked among the foremost in the profession, while their service is assured by permitting the Court to fix their compensation, just as it is permitted to do by Section 658, as it now stands.

In conclusion it should be stated that it is not hoped by the proposal here made to do away with the evils of the situation in their entirety. It is believed that so desirable a result is impossible; at least, no proposal has come to our attention that would seem to accomplish this end, but most of the not more than three disinterested persons to examine him and evils can be obviated, and as the legislation here proposed is believed to come nearest to effectuating the purpose in view, it is hoped that this honorable and learned body will lend the great influence of its name and sponsorship to its enactment.

AN ACT to amend section six hundred and fifty-eight of the Code of Criminal Procedure, in relation to inquiry into the insanity of the defendant before or during the trial, or after conviction.

The people of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section six hundred and fifty-eight of the Code of Criminal Procedure is hereby amended so as to read as follows:

Sec. 658. When a defendant pleads insanity, as prescribed in section three hundred and thirty-six, the court in which the indictment is pending, instead of proceeding with the trial of the indictment *shall* appoint a commission of

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report to the court *with their opinion* as to his sanity at the time of the commission of the crime. *The opinion of the commissioners may be presented to the jury, and the counsel for the State and for the defendant may cross-examine such commissioners in regard thereto.*

If the defendant in confinement, under indictment, appears to be, at any time before or after conviction, insane, the court in which the indictment is pending, unless the defendant is under sentence of death, may appoint a like commission to examine him and report to the Court as to his sanity at the time of the examination.

The commission must summarily proceed to make their examination. Before commencing they must take the oath prescribed in the Code of Civil Procedure to be taken by referees. They must be attended by the district attorney of the county, and may call and examine witnesses and compel their attendance. The counsel of the defendant may take part in the proceedings. When the commissioners have concluded their examination they must forthwith report the facts to the Court with their opinion thereon.

Sec. 2. This act shall take effect, etc.

The additions and changes are indicated by the *italics*.

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BURIALS AT SEA.

BY CLARK BELL, ESQ., LL.D.

(Read before the Medico-Legal Society, March Session, 1909.)

The ocean has been for all time the cemetery of the human race. Its profound and immeasurable depths throughout man's history has held his remains, committed to its bosom, by the sailors of the world, in and throughout all time.

It arrests all the usual processes of decay in the serene equilibrium of its temperature, oblivious to the heat of the tropics or the frigidity of the poles.

This sanitation of nature's mausoleum, of such countless myriads of the race lying in its unfathomable caves, is unsurpassed by the creative ingenuity of man, in its majestic and stately processes. As one of the grand portals, through which the body of man is restored to its original elements, it has neither superior nor equal. It is the grand and profound laboratory of the Infinite One. It justifies and illumines that grand majestic sentence of the Holy Writ, "When the sea gives up its dead."

Still there is in every human soul a strong and powerful reluctance to such a destiny as an ending of what we deem and designate as life. We cannot bring ourselves into any of that rest "for the weary one," after the end of life's journey, with which we are sometimes taught to regard the grave, and the sea, as places where the tired soldier lays down his armor and weapons and the "Weary are at rest."

It has been the unwritten law of the sea, for all the centuries, that all "those who go down to the sea in ships" must recognize and obey this law, and accept this destiny, that they lie "after life's fitful fever," "in the deep bosom of the ocean buried."

The grand, the stately march of that evolution, which attends along and marshals the forces that now control and mould man's

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civilization and progress, and compels that we now recognize that we are near an era, when we must consider what shall be human destiny in this regard, and must meet new questions..

Have we the right, or is it either our province or our duty to reset and provide for any change in the present conditions against that mental shrinking from burial at sea for such of our fellows as may wish to eliminate that fate out of our roll of possible fears.

The immediate future has now in store, as the destiny of our nation and country, the domination of the laws of the sea, as affecting the race of man before the close of the present century.

The American continents of the Western hemisphere must, of course, hold this position and place among maritime nations before we reach the first, third, or at least, half-milestone of the present century, and must, in all human probability, be the arbiter of the commerce of the world upon the great oceans of the world.

The present universal law of all maritime nations is: that he who dies more than one day's journey from land, or 100 miles from the land, is to be committed to the deep, and while this rests upon no legislative enactments, it is universally observed, regarded and respected as the law, governing all the captains in command of vessels upon the open sea of all countries and upon all the oceans of the world.

The utmost that laws or legislation of any country or nation could possibly do would be to compel obedience to the regulations regarding its own citizens, in its own vessels, and sailing under its flag, upon the navigable waters of the world. The legislation of no country would have jurisdiction upon the open sea. In its consideration, we must therefore regard it, from the American standpoint, and in the light of what our influence would be, or is likely to be, as to other lands.

As to the merits of the question, it must be conceded:

First. That from the sanitary standpoint nothing that could be created by man would be safer, higher or wiser in its results and more beneficent than the continuation of the present system.

Second. There can be, there is no safer disposition of the dead than burial at sea as practiced by mankind for centuries. No modification of the present would be at all proper to be considered or recommended, the effect or result of which could by any

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possibility be better, because it does not spread infection or disease among the living. A body that has died from cholera, smallpox, the plague, yellow fever, or any recognized infectious disease, should under no circumstances be exempted from this universal law used in disposition of the body now in vogue in all nations.

Third. If no danger of infection, or of any possible injury to the race, is absolutely eliminated, should action be taken by the legislatures of states or countries that would provide by scientific means for the return of the body to the relatives or friends by the company or the captain of the vessel if desired.

These are the problems to which our attention must be addressed, and in their consideration we must take account of the progress which has been made in the civilization of mankind before we must decide, and we must not decide hastily or carelessly.

Steam and electricity have now brought ocean navigation within well-defined and what we may safely call, narrow limits.

The whole system of the disposition of the dead in the United States of America has been revolutionized by the well-considered and thoughtful action of the profession of the embalmers and undertakers, who have universally and by concerted action in all their organizations, state and national, corrected the practice long established in this profession of embalming so as to perfectly preserve the bodies of the dead by a fluid, from which organic poisons that would baffle the chemist in case poison had been administered before death, and which hitherto had resulted in the prevention of the detection of crime, where the death was due to poison.

The recent and marvelous improvements by which the bodies of the dead can be safely embalmed through the arterial and venous circulation by injection of the embalming fluid in the brachial artery by a simple and perfectly safe application at a nominal expense by that simple process now in universal use, which for the last few years has brought it within the power of steamship companies to establish at a nominal cost a complete embalming outfit on board of ships, such as is in almost general use, and has been adopted by every successful undertaker or funeral director; that would place the dead body under what is now regarded, from a scientific standpoint, in a complete sanitary condition, from which no danger of infection need be feared,

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and is absolutely eliminated from taking the body to the destination of the vessel without danger.

Has the time now arrived when it will be proper to recommend that vessels sailing from our ports, in order to keep pace with the progress of our civilization, with the necessary apparatus to do the embalming and deliver the body to its destination of the vessel, if ordered or required by the friends or for any cause? It has happened where persons holding high official position, dying at sea, have been taken to land, as was done at Halifax with the dead body of a distinguished public official of our country, rather than to commit the body to the deep. Should legislation be enacted to justify the captains of vessels or authorize them under such circumstances to land the body or embalm the same?

Is the fear of burial at sea, which now deters people from traveling by sea, such an actual injury to our present commerce, in the first place, and is it our duty to consider and protect those who suffer from such fears by legislation as to burials at sea, when they make it a mater of actual contract to provide against this burial at sea with the steamship companies to provide against what they regard as a great disaster, by well protected and well regulated embalming of the dead under such sanitary conditions?

I give out these suggestions for your consideration.

Dr. Frederick Griffith, of this city, has consented to discuss the question of "Burial at Sea," from his own standpoint, and has consented to take part in this discussion.

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JUDICIAL HISTORY OF THE SUPREME COURT OF THE INDIAN TERRITORY.

BY CLARK BELL, LL.D.

(Continued from p. 225, September No.)

BIOGRAPHIES—CHIEF JUSTICES.

WILLIAM M. SPRINGER,

Ex-Chief Justice United States Court of Appeals for the Indian Territory.

BY R. I. WILLIAMS, CHIEF JUSTICE SUPREME COURT, STATE OF OKLAHOMA.

William M. Springer was born in Sullivan County, Indiana, May 30, 1836, a son of Thomas B. and Katherine Spinger. He removed with his parents to Jacksonville, Illinois, in 1848, where he attended the district schools, and in 1854, entered Illinois College. Whilst in the junior class the faculty insisted upon him expunging certain parts of his oration for an approaching exhibition, because he sustained the position of Senator Stephen A. Douglass in regard to the famous Kansas-Nebraska Bill. As a result his name was omitted from the program, and he published an expose, giving precedents from previous orations where sentiment on the opposite side of the question had been warmly encouraged, and circulated this article indiscriminately in the audience, which resulted in his dismissal. Thirty-two years later Illinois College made reparation by conferring upon him the honorary degree of LL.D. After leaving Illinois College he entered the Indiana State University at Bloomington, and graudated from there in 1858. Immediately thereafter he became

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the publisher of a Democratic newspaper at Lincoln, Illinois, during the famous Lincoln-Douglass debates, and afterwards became associate editor of the "Illinois State Register" at Springfield, and was engaged in the newspaper work there for five or six years. In the meantime he studied law and was admitted to the bar in 1861, and began the practice of his profession at Springfield.

In 1862, he was secretary of the state constitutional convention of Illinois, and in 1868 he went to Europe with his family, and during his two years absence he devoted special attention to the study of political economy and the practical workings of the tariff laws. He was a member of the Illinois State Legislature in 1871 and 1872; was elected to the 44th, 45th, 46th, 47th, 48th, 49th, 50th, 51st, 52nd and 53rd Congresses as a Democrat. He made the tariff question a paramount issue, especially the tariff upon wool. He frequently occupied the speaker's chair. He was a member of the sub-committee of the committee on foreign affairs that investigated the Emma mine affair, resulting in the recall of Minister Schenck from England, because his name was used to promote in England a speculative scheme concerning an American mine of that name. He was chairman of the sub-committee to investigate the Venezuelan claims, and his report upon that investigation in 1876, caused the name of Mr. Orth, the Republican candidate for Governor of Indiana, to be withdrawn from the ticket. In recognition of Mr. Springer's services in exposing these claims the government of Venezuela conferred upon him the decoration of the Order of Liberty, the highest honor which that nation has ever conferred upon a foreigner. When General Grant's friends were urging his nomination for a third term Mr. Springer introduced a resolution opposing the election of any person to the presidency for a third term, which was adopted by a vote of 232 to 18. In the 45th Congress Mr. Springer was a member of the celebrated Potter committee, which investigated the frauds of the presidential election of 1876, and a member of the sub-committee that visited Florida in June, 1878. He also investigated the consular offices of the United States, and exposed the loose practices in appropriating fees that should have been returned to the treasury. He reported articles of impeachment against George F. Seward, late consul general to Shanghai, and then minister plenipotentiary to

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China. He was chairman of the committee which investigated and exposed the star route frauds, and also the conduct of the Republican managers in the Cincinnati election of October, 1880. He was also chairman of the committee on Territories, and was the author of the Springer Bill organizing the Territory of Oklahoma and creating a judicial system for the Indian Territory, and a bill admitting Washington, Montana and North and South Dakota as states into the Union. In the 52nd Congress he was chairman of the Ways and Means committee, and in the 53rd Congress, which expired March 4th, 1895, he was chairman of the committee on banking and currency.

In March, 1895, he was appointed by President Cleveland as judge of the United States Court for the Northern District of the Indian Territory, being the first judge of said Northern District. He was succeeded by the Honorable Joseph A. Gill, of Colby, Kansas, four years thereafter. By virtue of being judge of said district, he was also a member of the United States Court of Appeals of the Indian Territory. When Judge C. B. Stuart resigned as judge of the Central District of the Indian Territory in September, 1895, he became Chief Justice of the United States Court of Appeals of the Indian Territory, and continued to hold said position during his term of office as judge of the Northern District.

At the expiration of Judge Springer's term of office, he resumed the practice of law in Washington, D. C., where he was resident counsel for the Creek and Cherokee Nations. In the case of the Cherokee Nation *vs.* Hitchcock, reported in 187 U. S., p. 294, 47 L. Ed., 183, 23 Sup. Ct. Rep., 115, he was the sole counsel for the nation, wherein it was held, practically for the first time, that Congress had plenary power of control over the Indian tribes, and undoubted authority to legislate directly, without the concurrence of the tribes, for the protection of the tribal property of such tribes, though a patent had issued to such tribe conveying such lands to the tribe to be held by it, with a reversionary interest in the Federal Government. He was also leading counsel in the case of Lone Wolf *vs.* Hitchcock, 187 U. S., 553, 47 L. Ed., 299, 23 Sup. Ct. Rep., 216, wherein the doctrine laid down in the case of Cherokee Nation *vs.* Hitchcock, *supra.*, was reaffirmed, and it was redeclared that Congress possessed full power in the matter of the control of the property of the

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different Indian tribes, and that if error was made in the exercise of such control by Congress, relief must be sought by appeal to that body and not to the Courts.

A case of importance in which he appeared as counsel in the Supreme Court of the United States is that of Missouri *vs.* Illinois and the Sanitary District of Chicago, reported in 200 U. S., p. 496, 50 L. Ed., 572, 26 Sup. Ct. Rep., 268. In this case the State of Missouri sought to enjoin the State of Illinois and the Sanitary District of Chicago from discharging sewerage through an artificial channel connecting Lake Michigan with the Desplaines river, a tributary of the Illinois, the latter of which empties into the Mississippi river above St. Louis, claiming that such sewerage so polluted the water of the Mississippi as to render it unfit to drink and productive of typhoid fever and other diseases. Illinois denied the original jurisdiction of the Supreme Court of the United States of said proceedings by a demurrer to the bill, which was overruled in an opinion in 180 U. S., p. 208, 45 L. Ed., 497, 21 Sup. Ct. Rep., 331, and leave given to answer. After answer and the taking of proof, including much expert testimony as to the effect of sewerage on water and health, the Court held that it had authority and jurisdiction to deal with a question of this nature between two states, which if it arose between two independent sovereignties might lead to war. On the merits of the case the appeal was dismissed without prejudice. His name appears as leading counsel in the opinion in 180 U. S., p. 208, *supra,* but does not appear in that reported in 200 U. S., p. 496, *supra,* he having died before the case was finally heard on its merits.

It would not be amiss to call attention to the case of Springer *vs.* United States, 102 U. S., p. 586, 26 L. Ed., 253, which involved the construction of the Act of June 30, 1864, as amended March 3rd, 1865, and taking effect April 1st, 1865, providing for an income tax, otherwise known as the War income tax, wherein such income tax was assailed and sustained.

Whilst engaged in the preparation of the Drainage Canal case, *supra,* he was taken ill at Chicago, Illinois, and died from pneumonia at Washington, D. C., December 4th, 1903.

Judge Springer's career covered a period of three decades of public life, almost uninterruptedly. In every position he measured

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up to the full standard. A man of conviction and courage, yet withal of the utmost courtesy. As a judge he was indefatigable and prodigious in labor, as the records of the trials in the old Northern District of the Indian Territory bear evidence and the reports of the United States Court of Appeals of the Indian Territory attest. He will long be remembered among the attorneys who were at the bar during his administration as a judge of extreme courtesy and urbanity.

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HON. WILLIAM H. H. CLAYTON,

Third Chief Justice United States Court of Appeals, Supreme Court, Indian Territory.

BY HON. R. L. WILLIAMS, OF GUTHRIE, OKLAHOMA.

William H. H. Clayton was born in Delaware county, Pennsylvania, near Delaware Bay, October 13th, 1840. He is the son of John Clayton, a farmer and a native of the same place, who married Miss Ann Clark, the daughter of a captain in the English army. His ancestors on the paternal side came to America with William Penn in 1684, the ancestral line ascending from William H. H. Clayton being John Clayton, Powell Clayton, Richard Clayton and William Clayton. The home in which he was born was settled by his ancestors about the time William Penn laid off the City of Philadelphia. His ancestors were never in public life. He is of the same family as the Honorable John M. Clayton, who was formerly a United States Senator from Delaware. His brother, Thomas J. Clayton, of Philadelphia, was at the time of his death judge of the Common Pleas Court of Delaware county, Pennsylvania. Another brother, Powell Clayton, of Eureka Springs, Ark., entered the army as a captain and rose to the rank of brigadier general, which position he held until the close of the war; was governor of Arkansas from 1868 to 1872, and served six years in the United States Senate from 1872 to 1878. The twin brother of William H. H. Clayton, John M. Clayton, of Pine Bluff, Ark., served in both branches of the Arkansas Legislature and three terms as sheriff of Jefferson county.

William H. H. Clayton received a liberal education, completing his course of study at Village Green Seminary, in Delaware county, Pennsylvania, having been a student there three years. From the spring of 1863 until the fall of 1864 he was teacher of military tactics and other branches in Village Green Seminary.

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In the winter of 1864 he went to Pine Bluff, Ark., and the following spring rented from the government an abandoned plantation and raised a profitable crop of cotton. In the winter of 1865 and 1866 he and his brother, Powell Clayton, purchased a plantation of 2,400 acres, he taking a one-third interest therein, and remained on that place until the spring of 1868, when he sold his interest to his brother, and from that time to the admission of Oklahoma into the Union, with the exception of the intervals during President Cleveland's two administrations, he has been in public life.

In 1862 he raised a company in his native county, and took the position of lieutenant in Company H, One Hundred and Twenty-fourth Pennsylvania Infantry, under Colonel Hawley, and took part in the battles of Hooker's Mountain, Antietam, and Fredericksburg, and the battle of the Wilderness.

In the latter part of 1868 he was appointed assistant assessor of internal revenue and held that position a short while, and in August of the same year he was appointed circuit superintendent of public instruction from the Seventh Judicial District, embracing seven counties. In 1870 he was appointed by the governor a trustee of the Arkansas Industrial University. He was admitted to the bar by Judge Stevenson in 1871, and on the 23d day of March of the same year received an appointment as prosecuting attorney for the First Judicial Circuit of Arkansas; on April 23, 1873, he was appointed by Governor Baxter as judge of the First Judicial Circuit, which position he held until July, 1874. In the following August he was appointed by President Grant United States district attorney for the Western District of Arkansas, embracing the Indian Territory and one-third of Arkansas, and was reappointed by President Hayes on January 20, 1879. In 1883 he was reappointed by President Arthur, and he held that position until he was displaced in the early part of President Cleveland's administration. In 1889 he was again appointed to the same position by President Harrison, retiring from said position again under President Cleveland's administration. In May, 1897, he was appointed United States judge of the Central District of the Indian Territory by President McKinley and reappointed to the same position by President Roosevelt in December, 1901, and again by President Roosevelt in December, 1905, and held the same until the admission of the State into the Union.

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During all of the time that he was judge of the Central District he was also a member of the United States Court of Appeals of the Indian Territory, being the third chief justice of said court. In the summer of 1906 he was appointed by President Roosevelt as a member of the districting and canvassing board for the election of delegates to the constitutional convention for the proposed State of Oklahoma, and under the Enabling Act for said State, by virtue of being the senior judge of the United States Court of Appeals of the Indian Territory in point of service, he, with Governor Frantz, of Oklahoma Territory, certified the result of the constitutional election and delivered the constitution to President Roosevelt for his approval.

Judge Clayton was married on October 13, 1869, at Pine Bluff, Ark., to Miss Florence A. Barnes, who was born at Arkansas Post December 10, 1846, and is the daughter of William K. Barnes, formerly of Alabama; her grandmother was a Miss Bogy, aunt of the late United States Senator Louis V. Bogy, of Missouri; her mother was Caroline Skull, daughter of Hugh Skull, of French descent; her maternal uncle, Dr. Benjamin F. Skull, was a medical purveyor of the Confederate army; she attended school at Pine Bluff and completed her education at Little Rock High School.

Judge Clayton was reared in the Methodist faith and adheres to the tenets of that denomination, but is a member of no church. His wife, who died about a year ago, was a member of the Catholic church. He is 5 feet 11 inches high, weighs about 150 pounds; has keen blue eyes and sharp-cut Grecian features. He is a man of great energy and concentration of thought, active, pushing, prompt and reliable.

During his administration as United States attorney for the Western District of Arkansas, the following persons were convicted of murder and executed: McClish Impson, Daniel Evans, John Whittington, James Moore, Edmund Capbell, Smoker Man Killer, Samuel Fooy, Office McGee, William Leach, Isham Seeley, Gibson Ishtonubbee, Aaron Wilson, Osey Sanders, John Valley, Sinker Wilson, Samuel Peters, John Postoak, James Diggs, Wiley, *alias* Colorado Bill, William Elliott, Dr. Henri Stewart, George W. Padgett, William Brown, Patrick McGowan, Amos Manley, Abler Manley, Edward Fulsom, Robert Massey, William H. Finch, Tu-al-is-to, Martin Joseph, *alias* Bully Joseph,

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Thomas L. Thompson, John Davis, Jack Woman Killer, William Phillips, George Tobler, Harris Austin, John Billy, Thomas Willis, Sam Goin, Jimmon Burris, Jefferson Jones, John Stansberry, Bood Crumption, Shephard Busby, John Thornton, John Pointer and Lewis Holder. And the following persons were convicted of murder and not executed, their sentences either being commuted or they were pardoned: Frank Butler, Oscar Snow, Black Crow, Irwing Perkins, Charles Thomas, William J. Meadows, Joshua Wade, Thomas Robinson, Carolina Grayson, Peter Grayson, Man Lewis, Robert Love, Uriah M. Cooper, Jackson Marshal, Jomes N. Heaslet, Lum Smith, Tul-wa-har-jo, Sah-quah-nee, John Jacobs, Matt Music, Barnua Maha, Fanny Echols, Dan Jones, Elsie James, Jo Martin, Madison James, Charles Billard, William Alexander, John Boyd, Eugene Staneley, Alexander Lewis and John Brown.

Judge Clayton's services to the people of the Indian Territory in its beneficial effect can scarcely be ever estimated. When there were no local courts in the Territory, the jurisdiction over the Indian Territory then being lodged in the Federal courts at Wichita, Kan.; Fort Smith, Ark., and Paris, Tex., when there were no local officers other than the local Indian officers, except the United States marshals, the country then being a rendezvous for refugee outlaws from all parts of the Union, as the United States attorney for the Federal court at Fort Smith, in which the most of these offenses were tried, by the vigorous and careful manner in which he prosecuted criminals, he aided in causing that court to bcome a terror to outlaws and criminals, and the hope of the law-abiding citizen. In the Central District of the Indian Territory, over which he presided as judge from May, 1897, until Oklahoma was admitted as a State into the Union, his administration was marked with integrity and fairness, but in such a way as to bring about a rigorous enforcement of the law. An innocent man had nothing to fear in his court, but the guilty man had reason to be apprehensive. As a judge upon the bench, who for over 20 years had represented the government as prosecuting attorney, he nearly always, with unerring skill and perception, recognized the criminal when he was brought into his court; and whilst he gave him the benefit of all of his rights under the law, equipped as he was with experience and knowledge of the criminal jurisprudence, he saw that society was

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also protected. His motto was, "Neither shall an innocent man be punished, nor shall one guilty man go free." Whilst a partisan, as he is recognized by all men so to be, yet upon the bench and in the tribunal of justice that partisanship was never permitted to influence the decisions of that court, and whilst he excelled as a judge, yet, if we were permitted to say in what field of his public life he was primate, we would say as a public prosecutor. Energetic, prudent, wise, careful, firm, strong and logical, persuasive and eloquent, with a comprehensive knowledge of the criminal law and the force of probative facts, and a remarkable insight into human nature and with a great love and reverence for the supremacy of the law, when he appeared for the government, it mattered not who appeared as advocate for the accused, who was guilty, he had doubly an additional reason in his heart for fear.

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HON. JOSEPH A. GILL.

Ex-Chief Justice, United States Court of Appeals, Indian Territory.

Joseph A. Gill, formerly United States Judge, Northern District of Indian Territory, was born at Wheeling, West Virginia, on February 17, 1854. His father was John W. Gill, a banker, and one of the early manufacturers in silk, iron, and paper at Wheeling, West Virginia. Among other exhibits his silks took the Gold Medal at the International Fair at London in the early fifties, and he manufactured the first silk American flag. His father was Joseph Gill, who assisted in founding the Quaker settlement at Mount Pleasant, Jefferson County, Ohio, and was a leading banker and large land-holder in the early history of Ohio. Judge Gill's mother, Rhoda A. Smith, was the daughter of Judge David Smith, a pioneer publisher and editor of Columbus, Ohio, and one of the earlier Probate Judges there. Mrs. Gill was a finely educated woman and given to entertaining largely, and died at the great age of eighty-eight, at her home near Springfield, Illinois, on September 8, 1908.

In 1864, the family removed to a farm just west of Springfield, Illinois, where the subject of our sketch was brought up to hard farm labor. He received a fair common school education, which was supplemented by an eclectic course of three years at the Illinois University, at Champaign, Illinois, and by teaching public school for a number of years, first in Hancock County, and then in Sangamon County, Illinois.

During these years of teaching he was preparing himself in the law under the able direction of General John A. McClernand, and Hon. Charles A. Keys, and was admitted to the bar at Springfield, Illinois by the Supreme Court in January, 1880, was connected with some important cases there, and in September, 1883, removed to Oregon, living first at Portland, then at

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Astoria, and afterwards removing to Pacific County, Washington, where he practiced law, edited the *Pacific Journal,* and was agent for the Shoal Water Bay Transportation Company, under L. A. Loomis, Esq.

In 1886, he was induced to go Omaha, Nebraska, where he was associated with L. H. Bradley in the practice of law, but not liking the place, early in 1887, he removed to Colby, Thomas County, Kansas, where he lived for thirteen years, practicing law and editing the *Thomas County Cat,* a weekly newspaper that under his management attained a wide celebrity.

In December, 1899, President McKinley appointed him United States Judge for the Northern District of Indian Territory to succeed Judge Wm. M. Springer.

Judge Gill, in his new position won the confidence and esteem of all, and handled the many intricate legal questions pertaining to his jurisdiction in a manner to commend him to the bar and litigants generally.

In December, 1903, President Roosevelt reappointed him as Judge in his district and he remained in this position until the proclamation declaring statehood for Oklahoma, in November, 1907. During his terms he presided over the Court of Appeals in Indian Territory as Chief Justice, and wrote many able opinions in connection with Justices W. H. H. Clayton, Hosea Townsend, John R. Thomas, C. J. Raymond, and Wm. R. Lawrence.

In 1906, he was appointed by the President in connection with Judge Wm. H. H. Clayton, and Commissioner to the Five Civilized Tribes, Hon. Tams Bixby, as a Districting and Canvassing Board. This board had general supervision and control of the election of Delegates for the Oklahoma Constitutional Convension.

Judge Gill was married in December, 1887, to Miss Nannie Donahue, daughter of the Hon. M. Donahue, of Clinton, Illinois. They have three children, Edna L. Rose M., and Joseph A. Gill, Jr., the last born July 7, 1903.

He is a great lover of his home, is connected with the Baptist Church, and is a 32d degree member of the Scottish Rite. He is a hard worker, and yet fond of company, and of a good story, both in the telling and hearing.

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His benevolences are unostentatious, but many, and he is always ready to help the under-dog.

With a large acquaintance among the public men of the day he enjoys the confidence and esteem of all. He is an ardent Republican, and yet broad enough to recognize beneficent political policies in whatever party they may originate.

His home is at Vinita, Oklahoma.

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HON. CONSTANTINE B. KILGORE,

Associate Justice, Indian Territory.

BY HON. R. L. WILLIAMS, OF GUTHRIE, OKLAHOMA.

Constantine B. Kilgore was born in Coweta county, Georgia, on February 20th, 1835. His father removed to Rusk county, Texas, in 1846, where he engaged in the occupation of a farmer and carpenter until the beginning of the war between the States, in which he enlisted on the side of the South and was killed at the battle of Oak Hill, in 1861.

When Judge Kilgore was a boy only 16 years of age, with the permission of his parents, he left home and went to work for his board, clothes and schooling, and under this arrangement acquired a fair education. After leaving school he secured employment as a clerk in a store, and during his leisure hours studied law and prepared himself for his life's work. In 1858 he was married to Miss Fannie Barret, daughter of Major S. S. Barret, of Rush county, Texas. He was opposed to secession, but, like many other men of the South, went with his State, and after Texas passed its secession ordinance and the fratricidal war began, he enlisted in the Tenth Texas Cavalry in the Confederate service as orderly sergeant of his company. He was soon after elected second lieutenant and then captain of Company G. Thereafter during the Kentucky campaign he was advanced to the rank of Adjutant General. At the battle of Chickamauga he was wounded and captured and held as a prisoner of war until peace was restored. After the war he was engaged in farming, studying law during his spare time. In 1869, he was elected as Justice of the Peace in Rusk County, Texas. At that time five Justices composed the County Court, the Justices of the Peace assessing the taxes in each precient. His administration was marked by fearlessness and justness, which were marked characteristics of the life of the man. In

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1876, he was elected a member of the Constitutional Convention which framed the present constitution of the State of Texas, and ranked as an able, capable and fearless member of that body. In 1877, he removed from Kilgore, Gregg County, formerly a portion of Rusk County, to Wills Point, Van Zandt County, where he resided until he became a resident of the Indian Territory. In 1880, he was an elector on the National Democratic ticket. In 1884, he was a member of the State Senate of Texas, taking an active and leading part in the deliberations of that body, being President *pro tem.* thereof. In 1886, he was nominated as a member of Congress of the United States Congress from the District comprising Van Zandt County, not being a candidate for the position. He was elected and served for eight successive terms. His record in Congress was characteristic of the life of the man, fearless, honest and faithful. He became famous by kicking open the door of the House and breaking Speaker Reed's quorum.

In December, 1894, he was appointed by President Cleveland as United States Judge for the Southern District of the Indian Territory, and was confirmed by the Senate on March 23rd, 1895. After his appointment he removed to Ardmore, Indian Territory, and assumed the arduous duties of that office. His administration as a judge was characteristic of his life, practical, brave, honest and faithful, looking at the substance rather than the form, striving that justice should be done.

In September, 1895, he died at Ardmore, Indian Territory, and was buried at Wills Point, Texas, on September 24, 1897, amongst those who had known him the longest and the best, and where he was universally beloved. He was a member of the Masonic Order and the Presbyterian church, and died a consistent member of that faith. Rugged, brave and true, one of nature's noblemen, he stands as an exemplar for the young men of our country.

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HOSEA TOWNSEND.

United States Associate Judge Southern District of Indian Territory.

1897-1907.

BY CLARENCE B. DOUGLAS.

Hosea Townsend: Was born on a farm June 16, 1840, in Greenwich, Huron County, Ohio, and there spent his boyhood until seventeen years of age; he then entered Western Reserve College at Hudson, Ohio. When the tocsin of war sounded in 1861, he left College and enlisted in the 2d Ohio Cavalry as a private, was promoted to 1st sergeant and then second lieutenant, and served during 1862, in the Indian Territory and Missouri. In 1863 he resigned on the surgeon's certificate of disability, and returning to Cleveland, Ohio, studied law and was admitted to the bar in 1865. He removed to Memphis, Tennessee, and practiced law at that place until 1879. In 1869, he was elected a member of the House of Representatives of the Tennessee Legislature, as a Republican. Leaving Tennessee he settled in Colorado in 1881, and engaged in practicing law and mining. In 1888, Judge Townsend was nominated and elected on the Republican ticket Representative in the 51st Congress. In 1890 was re-elected to the 52d Congress, Colorado at that time constituting one district, and having only one member of the House. In 1897, he was appointed United States Judge of the Southern District of Indian Territory, which offices by reappointment he held for more than ten years, and until Oklahoma became a State. Judge Townsend is an active member of the G. A. R. and of the Denver Commandery of the Loyal Legion and is also a 32d degree Mason, universally respected and beloved for his sterling qualities as a parent and a man, leaving a family and one son, James Townsend, a journalist of prominence and position, and who is a highly gifted editor in Philadelphia on one of the leading journals. He died at Ardmore, Okla., in March, 1909.

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One of his contemporaries thus speaks of him:

A history of the Judiciary of Oklahoma would not be complete without special mention of Hon. Hosea Townsend, for more than ten years United States Judge of the Southern District of what was then Indian Territory and by virtue of that position a member of the United States Court of Appeals. Assuming his judicial duties in 1897, in a country governed entirely by the Courts, without State, territorial, district, county or even legal municipal organizations, when only the personality of the Judge on the bench and the office force of the United States Marshall of the district under his direction stood between the law abiding citizen and the lawless element, when practically every case tried required a judicial precedent to be established, when the Judge on the bench was the law and except for him chaos reigned in legal matters civil and criminal, Judge Townsend faced a problem few officials within the history of the Bench outside this jurisdiction have been called upon to meet and solve.

Cast in a mould by nature great, a giant intellectually, firm as the rocks in the snow capped peaks of his former Colorado home, yet gentle as a woman, with a keen sense of justice and the courage of his convictions, bold to do his duty regardless of all clamor or threats, as duty seemed to him, Judge Townsend for ten trying years held the scales of justice blind, without seeing friend or foe. By loyal devotion to his high position he has carved deep his name and fame on the tablets of that trying period when through the evolution process the land of his adoption passed from the fringed edge of civilization with all its characteristic citizenship to the glorious realization of his dream of Statehood. For more than ten years he stood adamant and beat back the forces that knew no law save self, and by his action as citizen and as Judge firmly established the rule of right over might throughout the district over which he presided.

With Judge Townsend the question has not been "Is it popular," but "Is it right," and this once settled in his own mind he waited not to trim his sail and catch the popular breeze, but rather bent his energies to make it blow in the right direction. Of judicial temperment, splendidly equipped with experience, and a strong legal mind, of exalted character, winning personality and commanding presence, he typifies the ideal jurist that brings to the Bench that reverence which will ever keep it the most

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honored and cherished institution and department of our Republic. Side lights on the life of Judge Townsend show that he early developed that strength of character, determination and superb courage of his convictions which contributed so much to his success on the Bench. During his residence at Memphis he took a decided stand against the carpet bag regime which was in full power and was largely instrumental in breaking up this obnoxious form of government in Tennessee. As a Republican member of the State Legislature he voted to call the Constitutional Convention that abolished the "Brownlow Government," and voted against Andrew Johnson for U. S. Senator and actively assisted in the election of his opponent Henry Cooper. In Colorado he quickly became a prominent political figure participating in the Councils of his party, and by common consent soon became its recognized leader in State politics. During the Free Silver agitation when the State of Colorado was the nerve center of that movement Judge Townsend in the State Convention defeated the first Free Silver resolution ever offered as a plank for a State platform. From 1892 to 1897, he led the fight against the teachings of Waite and Bryan and was one of the few prominent men of his party who withstood the popular clamor of Colorado citizens and refused to follow Senator Teller when he sacrificed his Republicanism on the Altar of Free Silver.

While a member of Congress, Judge Townsend became a close personal friend of Wm. McKinley and in the party caucus cast his vote for McKinley for Speaker of the House against Thomas B. Reed. The first appointment of Judge Townsend to the U. S. Bench was made a personal matter by President McKinley, and the best evidence that his official record was an unqualified success is the fact that he was twice reappointed after his first term without opposition and with the unanimous indorsement of the bar and people of his district.

As farmer boy, college student, private soldier and commissioned officer, as lawyer, legislator, statesman and as jurist he has made performance square with promise, and by the most exacting rule to be applied to a long and busy life he measures up to the highest type of American Citizenship, and by all who know him is acclaimed the noblest work of God, an honest man.

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THE INDETERMINATE SENTENCE.

BY CLARK BELL, ESQ., LL.D., EDITOR OF MEDICO-LEGAL JOURNAL, N. Y. CITY.

(Contributed to the National Conference on Criminal Law and Criminology, held at Chicago, Ill., June 6, 7 and 8, 1909, at the Law Department of the Northwestern University.)

The problem of our century in criminology, one that confronts the student as we are now passing through the closing days of its first decade is how best to eliminate from our minds the idea that has dominated the race through all the past, that punishment for crime was and should be in the nature of a penalty rather than as a deterrent.

In the very architecture of our language *punishment* has stood for the pain and suffering inflicted on one for crime or any offense committed, and particularly so as to enforcement of the law regarding it.

It has always been assumed as an axiom that pain was elemental in the punishment of crime. The very word punish is defined by our oldest and ablest lexicographer as follows:

"To afflict with pain for a crime or fault," quoting Milton: "A greater Power now ruled him *punished* in the shape he sinned."

"To afflict with pain for a crime or with a view to amendment; to chasten, as a father punishes his child for disobedience."

"To reward with pain or suffering inflicted on the offender, as referring to crime, as, for example, to punish murder or theft."

Laws were called punitive which provided for that punishment which recognized pain and suffering as the principal element in its corrective effects.

The very word "penalty" means "Penal retribution," "Punishment for crime committed."

It is a word that means that suffering or pain that the law enforces for the commission of crime or offenses. The word

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penal has this distinct signification. A penal law is one that provides for the punishment of crime or offenses.

Penology is that science which treats of crime and its punishment as it affects the offender and the public.

Penal law has come into our conception and consciousness as retributive.

We are thus confronted at the outset, at the very threshold, with ideas and concepts that have become engrafted and crystalized, and so to say embedded in the average human mind. The human race illustrates most powerfully and marvelously, the influence of suggestion, as affecting the mind of man in dominating the action.

We have come, as a race, into a mental condition which prepared us to say of a punishment which inflicts pain and suffering on an offender "that it was well deserved." We are mentally prepared to say often of a degenerate, "He deserves a dozen on the bare back." "He should be whipped till the blood runs down to his heels."

Actual body pain and suffering to the offender, especially in crimes of violence and force, give a satisfactory rest to our minds when we see it inflicted, when the crime has been one of force and violence against a weak object, like that of a drunken husband beating his wife.

But we should be prepared to start to-day with the assertion that there is no true justification for the claim that society has the right to enact any law which assumes the right to actually inflict pain and suffering on a human being as a penalty for crime except upon the theory of the utility of the effect of the punishment as a deterrent or as a preventive against the perpetration of similar offenses against others. Nothing is to-day more clearly established than that society has no right to inflict pain on an offender in the vindictive spirit of the standard definitions. It should never be used as a penalty and always as a deterrent.

No great writer has ever endeavored to claim the right to mete out suffering and pain on the offender in any vindictive spirit, only in the remedial effects as a deterrent.

The true test of human punishment for crime should be its results as a deterrent, measured by its effect upon the volume of crime and on others, not on the offender in the given case.

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Experience alone enabled us in the last century to see that severity of punishment did not diminish the volume of crime.

It is not a very long time since 150 offenses were punishable with death in England on the erroneous idea that severe punishments would diminish crime. It is in our own day that by this test in the last half a century these crimes have been diminished to three; and crime decreasing in volume *pari passu* with stately steps.

We are to study crime in its punishment to-day by a careful crucial study of results. Traditions and old ideas and conceptions must not dominate our action.

The Italian school of thinkers, with the grand energy of Lombroso, the brilliant Enrico Ferri and their colleagues of that school of criminology, have compelled scientific thought, whether we agree with these grand intellects or not, to concede that it is wiser now to study the man, the criminal, than the crime itself.

The environment, the lineage, the heredity of the offender, his craniology, his mind, his psychological side, must now be considered. Moritz Benedikt, of Vienna, has added to and enriched the knowledge of the world by his studies of the skull and brain of man since the day I first met him and Enrico Ferri in Paris, at the International Medical Legal Congress in that great centre many years ago, and they and their confreres have since continued this study of how to investigate, guard, guide, govern and protect society against the criminal and the criminal against himself.

The indeterminate sentence is an evolution and a fruit of that study and the influence of the Italian thinkers, and the great society of the criminologists of all the world, who have helped to place it before us, for a trial and inspection.

New York has substantially accepted it. It is engrafted in its principal working upon our penal code.

This conference of this great university is preparing to place a milestone at the close of the first decade of our century which shall stand as a landmark to mark the progress and the growth of scientific progress along the pathway of human scientific thought and endeavor in our era.

I visited the Night Court, at which Judge Fred B. House pre-

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sided at midnight, and saw its working recently and learned that a division of thought as to the utility of this feature existed. I call judicial and scientific attention to it, and I hope to make this occasion one for the beginning of a symposium for the discussion of this theme and shall present the views of many of my colleagues who are interested in the study and shall publish them in THE MEDICO-LEGAL JOURNAL as a feature of the questions involved which I have only time or space to more than now open.

I sent out a few to those who may have time in a busy professional life to supply data for the discussion of this theme and invite contributions to this work and continue it after this conference has closed its useful work.

The origin of the indeterminate sentence may be traced to a desire to so frame the law that the majesty of the law be maintained and preserved and still furnish the opportunity and an incentive to the convicted criminal to reform.

It has been defined as a sentence which has been imposed by the court for the commission of a crime without fixing a definite period or limitation of term of imprisonment, but which simply directs that the criminal be imprisoned or placed in the custody of the prison authorities to be held for not less than the minimum nor longer than the maximum time fixed by the law for the crime for which the prisoner stands convicted.

It has been provided for by law in several of the States for the imposition of such sentences.

The New York Penal Code providing for such cases is as follows:

Sec. 14. Punishment of felonies where not fixed by Statute. A person convicted of a crime declared to be a felony for which no other punishment is specially prescribed by this code or by any other statutory provision in force at the time of the conviction and sentence is punishable by imprisonment for not more than seven years or by a fine of not more than one thousand dollars, or by both.

CASES UNDER IT.

People *v.* Meakin, 44 St. Rep., 752; 8 N. Y. Crim., 412, 133, 223; affirming 61 Hun, 327; 40 St. Rep., 686.

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PUNISHMENT OF MISCELLANEOUS CRIMES.

Sec. 15. A person convicted of a crime declared to be a misdemeanor for which no other punishment is specially prescribed by this code, or by any other statutory provision in force at the time of the conviction and sentence is punishable by imprisonment in a penitentiary or county jail for not more than one year or by a fine of not more than five hundred dollars, or by both.

Sec. 717. Judgment on condition.

When the defendant pleads guilty or is convicted either by the court or by a jury, the court must render judgment thereon of fine or imprisonment, or both, as the case may require; but the fine cannot exceed fifty dollars, nor the imprisonment six months.

(See cases cited under Sec. 15, *vide*, p. 7, Silvernail's Penal Code.)

Section 483, Code of Criminal Procedure, provides as follows:

Sec. 483. Court may summarily inquire into circumstances in aggravation or mitigation of punishment. After a plea or verdict of guilty, in a case where a discretion is conferred upon the court as to the extent of the punishment, the court, upon the suggestion of either party, that there are circumstances which may be properly taken into view, either in aggravation or mitigation of the punishment, may, in its discretion, hear the same summarily at a specified time, and upon such notice to the adverse party as it may direct.

Sec. 470, added by Chapter 651 of 1893, and Sec. 470 (suspension of judgment) relate to this subject.

CRIMES.

Birdseye's Statutes, p. 915-31-1.

2. In any other case he is punishable by imprisonment for not more than half of the longest term, only a fine of not more than one-half of the largest sum prescribed upon a conviction for commission of the offense, or by both such fine and imprisonment.

Penal Code, Sec. 686, p. 920.

There is a general opinion not only in the Bar, but in the

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public mind, in favor of such sentences, and the more advanced thinkers are of the opinion that the practical working of such sentences are good and for the public weal. The courts are sentencing prisoners on this plan, which has been of very general good and is desirable public service, as to the prisoners sentenced and committed to the Elmira Reformatory and other prisons of the State.

In Ohio, Illinois, Indiana and Massachusetts the constitutionality of such sentences has been upheld.

The contrary has been held by the Supreme Court of Michigan. The elementary writers on criminology start on the assumption that the principle underlying this sentence is commendable. There is a difference of opinion, however, among the judges who pass sentence on prisoners, and I have been told by one of the ablest men of the bench of magistrates of the City of New York that there are a large number of judges who do not concede the wisdom and propriety of such sentences.

The present conference, I trust, may be of great public service. It will call this subject to public attention. I have sent out to the bench of magistrates of the City of New York a letter which I quote as follows:

MEDICO-LEGAL JOURNAL.
Office of the Editor,
39 BROADWAY.

NEW YORK, May 30th, 1909.

MY DEAR SIR AND COLLEAGUE:

I have been invited to attend the Conference on Criminal Law and Criminology to be held before the Law Department of the University of Chicago on June 7th and 8th next and to speak on the subject of "Indeterminate Sentence" and "Criminology."

In a recent conference with Mr. Magistrate House he stated that he thought the magistrates of the city were largely opposed to the indeterminate sentence in our criminal courts.

Will you be so kind as to give us briefly your views for use in that direction as to the value and utility of the indeterminate sentence in its practical work in the criminal courts in the City of New York, and do so early so that I can use it immediately?

I remain, dear sir,

Very faithfully yours,

CLARK BELL.

To Hon. Peter T. Barlow,
Chairman of Board of Magistrates.

I have received only as yet a few replies as the time is short. I quote only four.

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CITY MAGISTRATES' COURT,
FIRST DIVISION, CITY OF NEW YORK.
314 W. 54th St.

NEW YORK, June 1st, 1909.

MR. CLARK BELL, MEDICO-LEGAL JOURNAL, No. 39 Broadway, New York:

My Dear Sir—I have your letter of the 26th ult., and I think there must have been some confusion of terms in your conversation with Judge House.

We have a cumulative sentence law rather than an indeterminate sentence law. I understand an indeterminate sentence to be one in which the length of the sentence is fixed by a board of parole, or by someone in authority, depending upon the good conduct of the prisoner. The cumulative sentence law that is in force in our courts, and which we all believe to be bad, is a law under which the length of the sentence is fixed by the number of previous convictions, irrespective of the gravity of the offense committed—and there are many kinds of disorderly conduct—and irrespective of the conduct of the prisoner while serving his sentence, which in itself is sufficient to show its viciousness. I have not had enough experience with the indeterminate sentence law to say whether or not it is a good thing.

Very truly yours,

J. C. CORRIGAN.

CITY OF NEW YORK.
Chambers of Warren W. Foster,
Judge of the Court of General Sessions,
32 Franklin St.

NEW YORK, June 1, 1909.

MY DEAR SIR:

I beg to acknowledge your letter of the 26th of May, which has remained unanswered owing to my absence from the city.

I do not agree with Mr. Magistrate House if he says that the magistrates of the city are largely opposed to the indeterminate sentence law. I presume he refers to judges who are called upon to administer it.

I think that when the indeterminate sentence law was made mandatory, there was a very general feeling of opposition to it. I heard at the time very much criticism directed toward its mandatory provisions. I myself still think I was quite right about it, but many of the conditions which then seemed to me objectionable have been remedied, so that now I believe in it and have much satisfaction in so far as I can aid to make it effective.

The trend of our law and an enlightened penology, recognizing that punishment is not to be administered in revenge, but rather for reformation, holds that the offender must be taught and shown that good conduct and "uprighteousness" has, as its reward, freedom and happiness, and the reverse brings the reverse.

I regard the indeterminate sentence for those too hardened for parole as effective and welcome it.

Yours truly,

WARREN W. FOSTER.

Honorable Clark Bell, 39 Broadway, New York.

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The reply of Judge Barlow, President Board of Magistrates, was as follows:

NEW YORK, June 5, 1909.

CLARK BELL, ESQ., 39 BROADWAY, N. Y. C.:

My Dear Mr. Bell—The question of indeterminate sentence does not in any way affect our courts, that being a matter entirely for the higher courts. All of our sentences are for a fixed term, except where commitment is made to the workhouse, under the Cumulative Sentence Act; and in those cases the length of the period of incarceration depends upon the number of prior sentences, these being fixed automatically by the records of the workhouse.

I am, sir,

Yours very truly,

P. T. BARLOW,
City Magistrate.

OFFICE OF COUNTY JUDGE, KINGS COUNTY.

BROOKLYN, N. Y., June 7, 1909.

DR. CLARK BELL, 39 BROADWAY, N. Y. C.:

Dear Sir—I am in receipt of your favor of the 26th of May relative to the question of "Indeterminate Sentence."

This question will be combatted by the Judge who fixes the sentence, by the sociologist who is considering the criminal, and the public, who may be frequently interested in striving to reach a just conclusion. To my mind, the opinion of the Judge is entitled to very great weight.

The determination of a sentence by a judge for one convicted of a crime should be influenced by three elements: First, the benefit to society and the welfare of the locality; secondly, the welfare of the prisoner; thirdly, the welfare of the race. Alluding to the first two, in my judgment, it is the duty of the Judge so to sentence that there may be a lesson taught and protection granted to the citizens of the locality where the crime was committed. This is the vital point, to my mind. A severe sentence, while a great hardship on the individual and his family, may prove to be of such a character as to electrify the under-world and cause them to at least eliminate this very criminal activity in that locality. I have a certain case in mind, the case of Alfred Collier, 20 years of age, sentenced to an indeterminate sentence of not more than 19 years 6 months, and not less than nineteen years in State's Prison, for highway robbery of a depraved kind. The result of that sentence has been the entire breaking up of such practices in that neighborhood, and, in fact, all over the Borough of Brooklyn.

Taking up the second element, where it is possible to give a sentence without too great severity, and where the welfare of the prisoner could be kept in mind, it should be done, and such sentences are permissive when the community at large have not been seriously affected by the crime. It may be a sporadic case of forgery as a first offense due to a momentary weakness, or an assault in a sudden fit of anger. A sentence can then be imposed with great leniency. An indeterminate sentence is an excellent thing when the limits are entirely and completely fixed by the Judge in his discretion. The amendment of the law as to indeterminate sentences goes into effect May 1st, and was passed without any consultation with the judges and is utterly and entirely wrong in principle. It has only to do with the supposed welfare of the prisoner from the standpoint of the jailer

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or the parole commission. It utterly eliminates the welfare of the public. It completely ignores the right of a community through its judges to put away an individual, no matter what his age is, where the circumstances show clearly and unequivocally that such an individual is an undesirable citizen and should not be permitted to prey upon the public. I am utterly opposed to this amendment to the indeterminate sentence law, and if the tendency is going to be along these lines I am utterly and entirely against the indeterminate sentence.

Thanking you for your courtesy, I am,

Yours very truly,

NORMAN S. DIKE,
County Judge.

To widen the field of inquiry and discussion so as to embrace the Bench and Bar of the State of New York not only but of Illinois and other States and the public officials actually engaged in the administration of criminal jurisprudence, I have sent this broader letter open to all judges acting in the criminal courts, district attorneys and the Bar generally, and shall outline the discussion and open the columns of THE MEDICO-LEGAL JOURNAL to the replies, so that the result of the work of this conference can arrest general attention from its session for the rest of the year 1909.

MEDICO-LEGAL JOURNAL.
Office of the Editor,
39 BROADWAY.

May 30th, 1909.

MY DEAR SIRS AND COLLEAGUES:

I have been invited to attend the Conference on Criminal Law and Criminology, to be held before the Law Department of the University of Chicago on June 7th and 8th, next week, and to speak on the subject of "Indeterminate Sentence" and "Criminology."

Will you be so kind as to give me briefly your views for use in this direction as to the value and utility of the indeterminate sentence in its practical work in the criminal courts of our county when in force, and do so early so that I can use it immediately.

I remain, dear sir,

Very faithfully yours,

CLARK BELL.

To Judges of the Criminal Courts, District Attorneys, Students of Penalogy and Criminology, and the Bar of all the States.

I ask leave to offer for the consideration and action of this conference the following resolution:

Mr. Clark Bell offers the following resolution for the consideration and action of the National Conference on Criminal Law

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and Criminology called by the committee on organization of the Northwestern School of Law of Chicago, held June 6, 7 and 8th, 1909:

"*Resolved,* That it is the sense of this conference that the experience and knowledge derived from the application of the indeterminate sentence thus far applied in those States which have adopted it on the punishment of offenders has been for the public welfare, and it justifies the belief that it should be encouraged and extended.

"*Resolved,* That without dividing or discussing the elementary questions involved in its general use and adoption, or the principles underlying its solution as the proper basis of punishment of offenders for crime, that it must be conceded that it does open the door of hope, reform and deliverance to the guilty offender and meets with the sympathy of this conference."

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THE JUDICIAL HISTORY OF THE SUPREME COURT OF THE STATE OF WYOMING.

BY CLARK BELL, ESQ., LL.D.

The State of Wyoming lies in the Rocky Mountain region of the United States, south of Montana, west of South Dakota and Nebraska, south of and adjoining Colorado and Utah, and east of and adjoining Utah and Idaho.

It contains in area 97,890 square miles. Its southern boundary is the State parallel line, 41° north, and its northern boundary the State parallel line, 75°. It lies between the 104° and the 111° of west longitude, and measures in length 355 miles from east to west and 226 from north to south. It takes its name from an Indian derivation, meaning "large plains," and properly, because the State is one grand and lofty plateau which embraces almost the entire breadth of the Rocky Mountain system, while the great Continental divide crosses it from the middle of the southern boundary to the northwestern corner. It is substantially one broad expanse of plateau, from 5,000 to 7,000 feet above the sea, which is traversed by the immense detached mountain ranges, which divides these vast plains into separate basins. Among these are the Red Desert Basin, in the southwest, and the Big Horn Basin, extending southwesterly toward the Red Desert. This range is the highest in the State, with peaks over 15,000 feet in height.

The National Reservation, known as Yellowstone Park, is situated in the extreme northwestern portion of the State, and has been made a national reservation. It is drained by the Yellowstone and its two largest tributaries, the Big Horn and the Powder River. The tributaries of the Missouri drain the eastern and south central portions of the States. The Little Missouri and the Cheyenne, in the northeast; and the North Platte, in the southeast, which sweeps around the Laramie Mountains and enters

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Wyoming from Colorado, taking in the Sweetwater from the west and the Laramie from the south.

The southwestern part of this marvelous State is drained by the Green River, which is the grand source of the Colorado River, which rises in the Wind River range and flows southward into Utah. The Snake River, rising in the Shoshone Lake, Yellowstone Park, flows southward for 100 miles, is the greatest tributary of the Columbia River.

Wyoming has two great lakes—the Yellowstone, in the National Park, and Jackson Lake, which is a conduit and source of supply to the Snake River. This is a colossal, splendid and unique system of drainage, and at a grand canyon breaks through the gap between the Teton and the Salt River range of mountains, and passes on to Idaho in its roadway to the sea.

The State embraces a part of the Louisiana Purchase, under the treaty of 1883, by the conquest of Mexico, excepting that part of the Territory that came to us by the conquest of Mexico in 1848. The Territory was organized in 1889, and the State was admitted into the American Union on July 10th, 1890. The Constitution adopted in 1889 having been approved of by Congress.

The State of Wyoming is a magnificent State of nearly one hundred thousand square miles in extent. There is perhaps no State in the world of its dimensions with such scenic and marvelous natural attractions, cast in such gigantic collossal moulds.

Yellowstone Park is not, however, known to but few, and not appreciated, because not known. It will become in the near future the resort of all travelers of all climes, all countries. The State has enormous resources. Coal is mined in almost every county and seems literally inexhaustible. In 1901, Wyoming ranked fourth among the coal producing States. This was due to want of production, capital and energy in the mining of coal, which could move this State at any moment into the front rank. It must, however, be traversed by railways. Coal, graphite, oil, natural gas, gold, lead, copper and silver are plentiful. Its future in mining is beyond calculation.

In 1867 gold was discovered and South Pass City founded. The Union Pacific Railway, under the authority of Congress, laid out its route and commenced the construction of this great

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continental road of which corporation the writer was the attorney and counsel of its principal promoter, Dr. Thomas C. Durant. Cheyenne as a city was laid out as a station on that road. The writer was at Cheyenne before the road reached there with Dr. Durant and the engineer on a tour of inspection. The train of the railway following the one the railway party left was attacked and burned by the Indians. The railway was built under the protection of the troops and proceeded with the great national work.

A vigilance committee was formed at Laramie, Dak., and kept and preserved order. The Territorial Government was organized in 1869. When the Indian outbreaks ceased after the massacre of General Custer and avenged under the leadership of General William F. Cody, the growth and emigration was rapid and enormous. General George Crook, in charge of our troops, reduced the Indians to submission.

The tribes in Wyoming were the Sioux, the Crows, the Araphoes, Shoshones and small remnants of other Indian tribes. The Sioux were sent to South Dakota, the Crows to Montana, and reservations within the State were formed for the Araphoes, the Shoshones, and the scattered remnants of other tribes. In 1868 the Territory was created, embracing such parts of Dakota, Idaho and Utah as were within the lands named.

The Territorial Governors of Wyoming were: John A. Campbell (1869 to 1875), John M. Thayer (1875 to 1878), John W. Hoyt (1878 to 1882), William Hale (1882 to 1885), Francis E. Warren (1885 to 1886), George W. Baxter (1886 to ——), Thomas Moonlight (1886 to 1889, Francis E. Warren (1889 to 1890).

(TO BE CONTINUED.)

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CENTENARIANS.

BY CLARK BELL, ESQ., LL.D.

The most fruitful source of obtaining the record of centenarians is from the press reports of their death. The New York *Tribune* publishes the notice of Mary R. Sullivan:

Poughkeepsie, N. Y., May 8.—Mrs. Mary Sullivan, 107 years old, an employe and pensioner in the Chanler family for more than fifty years, died to-day at Rokeby, the Chanler homestead at Barrytown, where she had lived since she arrived from Ireland to join her husband, John Sullivan, then gardener for William B. Astor.

The New York *Sun* recently published in the evening edition the following:

Fishkill Landing, N. Y., May 18.—Mrs. Gertrude Schouten died this morning at her home near here. Her relatives say that she was 106 years old. She had lived in the same house for forty years.

Captain Goddard Ezekiel Dodge Diamond, now of Oakland, Cal., where he is still living, the New York *World* published some details of his life on Sunday, December 29, 1907. He was born on May 1, 1796, in Plymouth, Mass. He reached his 114th birthday May 1, 1909.

He has been able to do much useful work since he passed his 100th birthday. He served in the War with Mexico under General Taylor and Winfield Scott. He voted for Monroe for President in 1817. In the War of the Rebellion he was government agent at St. Louis, Mo. He wrote and published a work on "Longevity: The Secret of a Much Longer Life," written when he was 105 years of age, and a second edition when 110 years old.

He stated at 112 years of age, of his habits and method of living: "I am a strict vegetarian. I cured myself of rheumatism and other old age complaints at 42 years of age by leaving off meat, tea, coffee and using pure olive oil freely in my foods

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and rubbing it on my body after bathing. I use no stimulants of any sort and no meat whatever. I drink only water, milk and sweet fruit juices, unfermented; use eggs sparingly, seeing that they are fresh. I always season my food with olive oil, and when I fry food always use olive oil and use salt with everything." He never married. He is self-supporting by writing, and promoting the sale of his books. He renounced the use of doctors at 42 when he accepted his mode of living which he has followed strictly ever since.

The *Times* (N. Y.) prints the portrait of Henry J. Dorman, one of the oldest of the survivors of the Civil War, who was born in Steuben County, New York, 109 years ago. He now resides at Liberal, Mo., and draws a pension from the government.

Hon. J. Sloat Fassett, in Congress from that district, investigated his case from the records of the War Department. That journal wrote to his family for a photograph, and his daughter, Mrs. Hatie Dorman, who sent his portrait, which is published in that journal, gives his age as 109 and that he is now in poor health.

Susan Hurd Cook.—The Hammondsport *Herald* announces the 101st anniversary of Mrs. Cook in Clayton, near Watertown, Jefferson County, New York, as the oldest living "daughter of the American Revolution of 1776 and that this anniversary was honored by a large gathering of the Daughters of the American Revolution from the numerous chapters in Northern New York.

The delegation from the Seray de Chaumont Chapter presented a bouquet of 161 carnations to this aged lady.

The same number of this enterprising journal publishes the following announcement as to Mrs. Betsy Miller:

> Last Wednesday, near Naples, Mrs. Betsy Miller celebrated her 102d birthday anniversary. She is able to go about the neighborhood and does her housework. The week she was 102 years old she did two washings, assisted by her sons, aged 80 and 60 years. Mrs. Miller has survived four husbands.

The village of Naples is near the town line of Prattsburgh, in the County of Steuben, is about twenty miles distant from Hammondsport, N. Y., where the journal is published, and about ten

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miles from the village of Prattsburgh, Steuben County, N. Y. Naples is near the head of Lake Canandaigua, the extreme western one of the famous group of lakes which crowns, adorns and is named the "Lake Region of New York."

Charles Dimmers.—I clip from the Evening *Sun* (N. Y.) the following from the Buffalo *Times*—an account of a well authenticated tribute to the usefulness of one who has passed his century of life and is credited with being the oldest inhabitant.

In the Moscow Campaign in 1812 at Age of 5.

From the Buffalo Times.

He was 102 years old on February 21, and he is busy these days looking for a job. * * * He was a soldier under Napoleon.

Ninety years is a long time to remember dates and names and incidents, but Charley Dimmers has no trouble describing just how frozen potatoes taste for food three times a day. He ate them on that terrible march to and from Moscow when the Little Corsican sat bowed on his white horse eating his heart out with the terrific fires of ambition which burned within his breast. He ate little else, says Charley, because it was a case of every one forage for himself. The tea they made out of shrubs and grass, says Charley, was the best he ever tasted, and Napoleon liked it, too, he says.

Charles Dimmers was born in Treves, Germany, on February 21, 1807, of prosperous parents. With scores of other boys, he was pressed into military service and shortly after his departure from home found himself carrying water for the cavalry horses, shouldering a gun when necessary and otherwise assuming the manifold duties of the young soldiers in the days of Napoleon. When he arrived home after the fierce campaign he was told that he must again enlist in the army. He knocked down the recruiting officer, bade a hasty farewell to his parents and came to America.

Long chapters of the stories Charles Dimmers has lived and has seen acted must remain as memories with him alone, because he is quite hard of hearing, and to secure anything like a comprehensive idea of his life requires a great deal of shouting on the part of the questioner. His decided and puzzling German accent, too, is another barrier to the wonderful stories of French army life under Napoleon which one might hear from Buffalo's oldest inhabitant.

Ann Torbert.—The New York *Sun* is one of the most reliable of those journals who notice examples of longevity. We quote its announcement from its correspondence in Salem, N. J., who has passed her 101st birthday.

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101 YEARS OLD.

Mrs. Ann Torbert, of Salem, N. J., Has a Birthday.

Salem, N. J., April 28.—Mrs. Ann Torbert is to-day celebrating the 101st anniversary of her birth at the home of her daughter, Mrs. Rachel Pierpont, with whom she has lived the past few years. The event was allowed to pass without any elaborate reception as would be appropriate on such an occasion, for the old lady is confined to her bed with what appears to be her last illness and her death is expected at any day.

The family, which consists of five generations, viz., six children twenty grandchildren, thirty great-grandchildren and four great-great-grandchildren, have been notified, and as many as possible visited the bedside to-day one or two at a time.

It was the aged woman's desire that she might live and be in such health that such a reception as was accorded her last year might be held. At that affair 500 persons from all sections of the county came to greet her.

Jonathan Hatha, of England, 100 years of age.

Mr. James Easton, writing on "Human Longevity," reports 1,712 cases of men who reached the age of 100 years, citing Jonathan Hatha, vide p. 158, Vol. 25, Sept. No., 1908.

Daniel Bull McCarthy, County of Kerry, Ireland, vide p. 159, Vol. 25, Sept. Number Medico-Legal Journal.

Thomas Parr, of Shropshire, England, vide p. 159, Vol. 25, Sept. Number Medico-Legal Journal.

Robert Jenkins, of Yorkshire, England, vide p. 159, Vol. 25, Sept. Number Medico-Legal Journal.

Mrs. Mary Kiltrick, Uniontown, Pa., vide p. 159, Vol. 25, Sept. Number Medico-Legal Journal.

Dr. William H. Guilfoy made a list of centenarians who died in New York City.

The Register of Records, New York City, reported centenarians who had died in 1906—women, 9; men, 6; March 7 to December 28. 1907—women, 7; men, 3; January 7 to April 2.

Huldah Nelson, Frost Ann, N. Y., 105; Mary Denton, 100; Mrs. Robert Williams, of England, 100; Jacob William Luning Hamel Vorder, Hanover, 103; Catherine Dunscombe Shafto, 101; Abigail Hall Rogers, Vol. 25, p. 159, Sept. No., p. 226.

Journal of the Anthropological Institute reports in 1872 seven women and two men. Vide Dec. No. Medico-Legal Journal, Vol. 25, pp. 260, 262, 267.

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Marie Prion is perhaps the most remarkable example of a long life cited by Metchinikoff on the authority of Chemin (unpublished memoirs) now in the possession of this eminent authority (page 175), who died at Haut Garonne, in 1838, at the age of 158 years and who subsisted for the last ten years of her life on the cheese and milk of goats.

Ambroise Jantet, cited by Metchinikoff on the authority of the same author (Chemin unpublished Memoirs), who reached the age of 111 years. He was a laborer, living at Vendin, and died 1751, who ate nothing but unleavened bread and drank nothing but skimmed milk.

Nicoll Marc, who died at 110 years of age at the Chateau Colenburgh (pas de Calais), a hunchback and a cripple; as one who lived wholly on bread and milk food. This case is also cited by Mitchinikoff from Monsieur Chemin's Memoirs at page 139, and it is asserted that it was only towards the end of her life and with much persuasion that she consented to take a little wine.

Therese Abal Va is quoted by the same writer and on the same authority, based on the newspaper *Tiflissky,* Listok, of October 8, 1904: In the village of Sba, in the District of Gori, there is an old Osseille woman, Therese Abal Va, whose age is supposed to be about 180 years. This woman is still quite capable of looking after her household duties and needs.

Although she is bent, she walks firmly enough, has never taken alcoholic liquors, rises early. Her chief food is barley bread and buttermilk taken after churning the cream.

Metchinikoff's Prolongation of Life, p. 176.

These four cases, cited by this high authority, are in support of his claim that old age is a physical disease and not a normal condition of human life.

They seem to support his contention, that the microbe that produces lactic fermentation resists, retards and tends to prevent putrefaction, and that the diet and course of life, of these cases especially, in milk and its products, is an enormous factor in the prolonagtion of life.

Sally Hull Doremus, Newark, N. J., was 103 in September, 1907, and was announced in MEDICO-LEGAL JOURNAL December

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9, 1907, p. 268. She has since died in the winter of 1909 at Newark at 104 years of age.

Margaret Bowman celebrated her 103d birthday at the residence of her daughter in Brooklyn, N. Y., in 1907. She was announced in December Number MEDICO-LEGAL JOURNAL, and is still living.

James Bellow McGregor, of Mt. Sinapee, N. H., celebrated his 106th birthday in summer of 1907, announced in December Number, 1907, p. 291, MED. JOURNAL.

Rev. Abraham Isaac Frazer, of 488 St. Nicholas Avenue, New York City, announced December Number MED.-LEG. JOURNAL, p. 291.

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THE PHYSICIAN AS AN EXPERT WITNESS.

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CONTRIBUTED TO THE SYMPOSIUM OF THE MEDICO-LEGAL SOCIETY ON MEDICAL EXPERT TESTIMONY.

The law assumes that physicians and surgeons of practice and experience are experts in medicine and surgery. The question at once arises, What is an "expert"? It is thus defined: A professional witness, a skillfully practiced person, one who has skill, experience or peculiar knowledge of a subject of inquiry.

It is evident that the assumption made by the law is often an assumption not corroborated by fact. It is also true that experts are not of uniform knowledge. There is a marked difference between the expert as regarded by the law and the specialist, well trained in a given branch. There must of necessity be also all grades of ability and knowledge even among specialists. True, the law allows, and, in some cases, insists that the qualifications and fitness of an expert witness be gone into; that, on the one hand, the judge may determine the propriety of his testifying in the capacity in which he is offered, and, on the other hand, that the jury may, by common sense, weigh him that they may give to his evidence its proper value. And, still, such an examination, while tending to establish the fitness of the witness to testify as to special lines of medical knowledge, does not always establish the value of his testimony when the question is one of medicine, but not of a restricted branch.

Moreover, many a man competent to care intelligently for the sick, and to form an intelligent opinion, is a poor witness. Details

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of anatomical, physiological or bacteriological knowledge may be gone from him, and he may be unacquainted with many of the recent methods of examination and research. He may be unused to the rigid rules, that regulate the giving of testimony, and not versed in the traps of the shrewd attorney at the bar, in comparison with which the traps on the highway are but open ground. His training has been by the bedside; he is ingenuous and open, or, perhaps, too anxious to explain and to talk, not experienced in the giving of concise, terse opinions. Still, to most physicians at some time, and to many of us frequently, comes the necessity for giving expert testimony. It is commonly believed that medical opinion can be bought. In two branches of medicine this seems to have an appearance of verity, and yet, in justice, it must be said that in these two branches there is so much that is intangible, so much that depends on the makeup and temperament of the physician, that opinions, seemingly extremely variant, may be honestly held. I say "seemingly," for often variance is more seeming than real.

Upon the method that has been used in preliminary examinations by physicians I lay the chief blame for this popular belief. From time immemorial physicians have met in cases involving questions that were to be the object of judicial inquiry on a very different basis than from that of other meetings. When Dr. A. meets Dr. B. at the bedside in an ordinary professional consultation, Dr. B. puts in the possession of the consultant every fact that has bearing on the case. Dr. A. brings to bear all of his experience and all methods known to him to properly diagnose the case, and they sit down in the consultation room, usually agree upon all questions of fact, talk over matters of opinion, agree if they can, and if they cannot agree, state the difference in opinion fully and fairly to those chiefly interested, the patient or his friends. In the past how different has it been when they have met in court cases. Dr. B. smiles if Dr. A. does not see some important symptom; Dr. A. carefully refrains from expressing his opinion to Dr. B. as to the diagnosis or prognosis. They enter court a champion of each side, a medical advocate, and each endeavors, the one to magnify, for example, the suffering, and the other to discredit facts of significance. Seated often by counsel's side, they enter into the contest as a personal one, and by communications, whispered or written, assist in the cross-

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examination and act as medical advocates, made silent only by the compulsion of court rules. A man may properly be a medical advocate perhaps, but not in a case in which he is to serve as a witness.

In criminal cases independent investigations with a knowledge of what attorneys desire have been most frequently made. Given a result that is desired, and knowledge of facts necessary to obtain it, a trained investigator, knowing the value of signs and life history, it is not difficult to bring out facts, going this way or that to prove or disprove a certain theory. I recently listened to a most amusing monologue when a bright attorney took another attorney as a sample of what could be done in case the latter was accused of murder. Upon the latter's family history, past history, eccentricities and peculiar acts he based an argument that it would not be difficult to set up mental alienation as a defense. So well did he do this that the suppositious murderer, a cool, normal individual, declares to this day that he sometimes wonders if there is an abnormality in his mental makeup. If an attorney with only a general medical knowledge could array this alleged proof, what could a skillful alienist have done? On the other hand, I do not doubt that from faulty methods of examination some mentally impaired individuals are imprisoned. It is not within the scope of this paper to say how punishment is fitting for some of the mentally impaired. This opens up consideration of a very large problem.

The physician who is not impartial has no excuse. Even allowing for the almost universal bias that causes a physician to look upon a trial as a game in which "our side" is to win, and for the bias that a large fee, unconsciously perhaps, gives him as an incentive to earn his money, it is still true that the standard in our profession, even among honest men, is not yet high enough. To tell the truth, no matter whom it may hit, it is often in court, as in civil life, a hard thing to do, and moral stamina is less common than physical stamina in every branch of life.

A while ago I visited a well-known alienist at the request of an attorney of the highest standing in America. I laid before him a question of grave importance, whether in the presence of a disease that affected the spinal cord, and, in a certain way, the brain, mental competency was ever lessened or destroyed before the patient was in extremis. When I had finished, he said: "Let

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me see, which side did you say you represented?" I replied, "I didn't state, and I am directed by the attorney at whose request I am here to so present to you the facts in this case that your opinion may be given as a professional one, with no inkling as to which side pays for it." To him this was apparently a new revelation. Do you doubt that had I informed him of my attorney's interest his mind would have been more or less biased? Since questions of opinion are so often ones at issue, there must always be some honest differences. But the physician is not unbiased who endeavors to find grounds to support an attorney's contention or a detective's theory; in other words, he is unreliable the moment his attitude is other than judicial, that is, one which decides on the evidence, assisted by experience.

The physicians are not the only or the chief offenders. At the bar the men are few, who try cases absolutely on merit, who endeavor to bring out facts as they exist, and to allow opinions of value to go unchallenged before a jury if such opinions militate against the seeming interests of their clients. It is within my knowledge that very recently an attempt was made by a leading attorney not 50 miles from this city to throw a reasonable doubt into the minds of a jury by the testimony of physicians of high standing, some of whom I know believed that their testimony was protecting a man guilty of a criminal offense, and yet what they testified to was truthful. To endeavor to discredit the opinion of an honest, expert witness, while believing that such an opinion is correct, is unworthy of a true man. I am not criticising the probing of reasons for opinion, the inquiry as to whether their points of view are consistent with medical knowledge, nor the legitimate and proper inquiry as to the value of the opinion in doubtful cases by searching the knowledge and opportunities of the witnesses. Nor am I unaware that it has been in the experience of some attorneys of high rank to refuse to defend, to the extent he desired, a man whom they fully believed to be a criminal, only to be convinced later that the gentleman who did defend him proved him to be innocent and prevented a miscarriage of justice. I am not referring to careful probing or close examination to bring out all points of view and to learn the truth. I am referring to attempts to *distort* truth. And all of you who have had much court experience are aware that this is done. The public has come to look for it and

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to expect it. Theoretically, the district attorney who does not attempt to bring to light every fact bearing on a criminal case, whether this fact be for or against the accused, is no longer a prosecutor, but a persecutor. Theoretically, the attorney for the defendant who consciously and knowingly tries by catch questions and under-handed means to discredit testimony that he believes to be true is a disgrace to humanity and to his profession. Please bear in mind the restrictions I have first made, honest search and probing is to be commended. Pray do not misunderstand me. The Bar has many men, some of whom I am proud to call my friends, men who not only are well-equipped mentally, but are also possessed of an ethical sense fully developed. Shrewd, keen, ingenuous, thoughtful, they are ready to do their full duty by their clients, but not to lower themselves while in court.

It is not for a non-legal mind to suggest measures of relief for such unfortunate conditions as may exist in the legal profession. I will say, however, if properly in judicial procedure, the judge sitting in a case could often use the big stick as I have sometimes seen it used, many a physician would be spared humiliation, and some attorneys be taught the fear of God and a regard for the common decencies of life.

Because of the methods, however, of many attorneys of reputation, it is difficult to express in court one's real opinion, hence the medical witness is forced to tell half truths, answer in monosyllables and reply to hypothetical questions framed to mislead, and unless he be versed in the art of self-defense in cross-examination in court, his only salvation is the shrewdness of the attorney on the other side, who, bright as he may be, is not medically trained. I make this statement with the full knowledge of the fact recently stated by an attorney of high standing that no honest witness, medical or otherwise, has anything to fear in court if he tells the truth and does not attempt to magnify a minimum amount of knowledge. Who of you that has been in court many times is not well acquainted with the well-worn question, "Now, Doctor, you have testified that such and such things are customary and usual, now is it not possible"—and then follows a statement that you know is impossible outside the dreams of an hysteric. And yet an answer to such a question must be all framed, as I have one framed, if the physician is to give to the

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jury his real opinion. It should not be necessary, however, to invent a method of reply that shall convey the real opinion of the witness to the jury. The physician not accustomed to legal technicalities is often helpless in the hands of a shrewd attorney. The above is but a single instance of the well-known trap questions that are at the tongue's end of nearly every practiced lawyer.

To do away with the opprobrium attached to expert testimony different methods have been suggested. The appointment of experts by the court on the request of either counsl or by his own initiative is impractical, first, because the court is not cognizant of different trends of minds in experts; second, because the State compensation would be inferior to that offered by private corporations and individuals; third, because the lack of opportunity to cross-examine such *ex-parte* expert would often cause a miscarriage of justice.

The selection by medical societies of a list of physicians who may be called upon by the court as expert witnesses opens a field for medical politics which to-day, in other lines, often puts not the best fitted men in positions of honor and responsibility. My own views of this subject are well known in Essex county. If two physicians meet in a court case and examine it exactly as they would a private patient, openly, giving and receiving the best that there is to give and receive, there is no difficulty in 999 cases out of 1,000 in agreeing upon all questions of fact, of coming close to agreement on questions of opinion, leaving open the opportunity so vital to the interests of litigants, of stating honest differences of opinion to the jury, thus allowing them to be the ones to ultimately decide the question at issue as the law provides. This is not a theory, it has been proven by trial. It stands in the way of no other method. In northern Essex county it has been adopted by the branch of the Massachusetts Medical Society and almost universally by the practitioners in that section of the State. I am informed that other district societies have also adopted it. Let me illustrate by a suppositious case on the civil side, one of that trying group of traumatic hysteria. I see it for the defendant with Dr. B., the family physician, or even with a man who, at the suggestion of the attorney, has supplanted the family physician as being more pliable to the attorney's interest. We agree that there is paresis of certain muscles, diminished field of vision, hemianæsthesia and certain con-

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tractures. We agree on the one hand that trauma, or fright without trauma, is an adequate cause for such a condition, and, on the other hand, that the affection is mental in origin and location, and that when the patient can think she is well she will be well save for the weakness consequent to her absence of activity. While agreeing on this, we may differ as to whether such a condition can occur without pre-existing neuropathic basis and also as to the length of time necessary for recovery; he thinks complete recovery will never take place, I think that it will, that it may be in a month, a year or two years, but, from my knowledge of similar cases, I believe that the termination of litigation will favorably affect it.

The ideal condition would be a joint report to the court, whose witnesses we really are, of our findings. Agreement on facts and certain opinions, disagreement on others. The matters of agreement to go at once to the jury without comment, the matters of disagreement, a question for examination by the attorneys. This I know to be impossible under the present judicial procedure, but without the joint report the result is practically the same. The medical testimony is on a high plane.

On the criminal side I can see no objection to the employment of this plan. If courts of justice are established that justice may be given, certainly in criminal cases there is no room for personal aggrandizement nor of considering the trial a game in which the keenest wit shall win. There is no place for medical advocates, nor for testimony that is not as representative as possible of the best judgment that can be obtained. I fully appreciate, I think, all the practical difficulties that beset the attorney who sets before himself a high ideal of conduct and action; none the less, if a profession means anything in contradistinction from a trade, there are obligations which honorable men, at least, must feel.

In criminal cases where insanity is the defense, opinion more than fact must be relied upon. Hence the opportunity so much seized upon to frame hypothetical questions so that they may be answered in a desired way. Who can doubt that if in a recent case prominently before the public in which the differences of the medical experts' testimony was a matter of public ridicule and professional chagrin, the defendant had been seen by the alienists in the office of one of their number with reference to a

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diagnosis of his case, no criminal procedure being in existence, there would have been a practical if not an absolute unanimity of opinion in the reports made. In similar cases facts could be agreed upon, and opinions considered in such a way would be found to be much more in accord than has been the fact in the past.

In cases involving examinations by pathologists and chemists there would practically never be important differences. *Post mortem* findings, examination of suspected or suspicious fluids should but seldom cause difference. Incompetent examination on the one side or the other, you may say, might cause injustice, but this is safeguarded by the fact that under the conditions that we have established there would not be an agreement since the competent man would certainly never agree to the incompetent findings. In an exceptional case of this sort the jury would weigh the evidence as in every case of disagreement.

I wrote this spring to district attorneys of the State of Massachusetts asking them if in the plan as proposed they could think of any case where the interests of justice would, by it, be endangered. I received the courtesy of a reply from six of them; I abstract briefly some of their opinions:

One district attorney says: "In my opinion the cause of justice would not be injured by the procedure which you outline. This is substantially what I myself have required in several important matters. It seems to me even more important in criminal cases that the exact, honest and true conditions should be made apparent, and that no feeling of personal prestige should permit the employment of experts to carry out a certain theory, as distinguished from the real facts in the case, such as is sometimes shown in civil matters."

Another district attorney says: "I think that so far as the administration of the criminal law is concerned, the plan of procedure which you advocate would have but little practical effect, since the number of cases in which the question of the insanity of a defendant is tried out as a defense is very few. Where there is a real question of the sanity of the defendant the court will appoint alienists under the provisions of Chapter 257 of the Acts of 1904, and my experience has been that attorneys for defendants usually accept their report and do not further

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contest the question of sanity where the experts find a defendant to be sane."

Another opinion: "I concur heartily with your suggestions. I believe that medical experts, and, in fact, experts in all classes, should act in a judicial capacity and should not be open to the slightest suspicion that they favor either side."

Still another: "It seems to me that you have the right idea. It is a matter of common belief among lawyers, and that belief is usually impressed upon a jury in given cases, that doctors may be had for hire to bolster up any view of a case that the interests of the party concerned requires. I can think of no reason why the procedure that you suggest might not be as effectively used on the criminal side of the court as on the civil side."

Who objects to this plan? On the civil side some attorneys for the plaintiff who hope to build up a large case for damages, with no eye, of course, to the contingent fee! On the other hand, some attorneys for the defendants who do not wish to adequately compensate people for injury that they have suffered through the neglect of their clients. This is also objected to by a very small number of specialists whose work is largely that of medical advocates, while, to offset these, men of high standing in special lines most heartily approve of it, while many of the leaders in the ethical progress of the Bar have given it their unsolicited and hearty endorsement.

If the time ever comes that the contingent fee is done away with by legal enactment, and a fixed sum determined upon for legal services, when the plaintiff is unable to pay a fair compensation, and a definite sum be established for varying damages, the time of the judicial millennium will be near at hand.

This plan can be carried out in any case. I have been asked, "What do you do when you meet shysters?" I have met shysters on this basis with an ideal result. Honorable men can never find any trouble, I think. In a criminal case a joint examination by experts on each side to be ideal should be secret as to its result until the opinion or opinions were given in court. It is too much to expect this to be accomplished at first, although the plan leaves open, as you see, the opportunity for honest differences of opinion. I doubt, however, if attorneys ever agree to the full consummation of the plan as thus indicated. As far as we can now go is to be honest and open with each other, declining to

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admit the premise that law is intended to cover crime and wink at injustice, and hence denying the conclusion that our testimony is to support at any cost a stated theory. I now suggest one question most potent to suggest discussion in this society: Where does our duty lie as State officials if other State officials of whom we are in a large sense independent insist that our investigations and conclusions are the property of the State, and we find ourselves forbidden to disclose these to any other physician investigating in the proper interests of defendants? This question has never come to me to decide. I certainly feel, however, that if such constraint was exercised and could be legally enforced, it would be harmful to the interests of justice. I have yet to be convinced that a just cause for the government or for the defense needs concealment.

There are said to be three fundamental principles in the trial of cases. First, that the judge should decide questions of law; second, that the jury should decide questions of fact; third, that the parties shall have the right to introduce all relevant testimony. The plan that I propose to you interferes with none of these principles; moreover, it requires no legislative enactment. The initiative is where it should be, in the hands of the medical profession. The method has gone beyond the experimental stage.

In conclusion, I urge upon you its adoption, and this I do because, for several years, I have proven its practical usefulness and many others have done the same, because it elevates medical testimony in the court, interferes with no other plan tending to the same end, requires nothing except its adoption by individuals and societies, and frees the medical profession from all leading strings. The times are ripe.

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TRANSACTIONS.

AMERICAN INTERNATIONAL CONGRESS ON TUBERCULOSIS OF 1909 AND 1910.

The annual meeting of this body, held pursuant to call of the Council for the 24th day of February, 1909, at 12 o'clock noon, was adjourned over to this day, March 11th, 1909, at the general offices of the Congress, No. 39 Broadway in the City of New York, at 3 o'clock P. M.

The Congress convened and was called to order by the Secretary of the Council and Chairman of the Executive Committee, Mr. Clark Bell, who, on motion, was made Chairman of the annual meeting. Mr. Joseph F. Daly acted as Secretary of the meeting.

All the officers of the Congress and of the Council were present in person or by proxy, except Dr. M. M. Smith, of Dallas, Tex., and Dr. N. K. Foster, of Sacramento, Cal.

The Secretary read a letter from Col. F. T. H. Fest, of New Mexico, favoring his views that the next session be put off till September, 1910, and expressing his intention of being present at this session.

Mr. Bell produced a letter from Dr. A. E. Regensburger, member of the Council, favoring the postponement of the session to September, 1910.

Mr. Bell announced the following deaths in the Roll of Honorary Presidents of the Congress since the session of 1906 at the City of New York:

Hon. Abraham H. Dailey, Moritz Ellinger, of New York; Dr. William Bayard, of St. John, N. B.; W. B. Fletcher, M. D., of Indianapolis; Sir William Hingston, M. D., of Canada; Surgeon General Nicholas Senn, of Chicago, Ill.

Mr. Bell paid a tribute to the life and career of the honored names with allusions to their high and honorable lives in the service of the philanthropic labors of the Congress, and moved the adoption of the following resolution submitted by the committee selected by the Council to make a note of the lives of these gentlemen:

> *Resolved,* That a note of the great loss that the cause to which this Congress was dedicated had sustained, as well as this Congress itself, by the death of these splendid philanthropists, be made in the proceedings of this meeting and of the public recognition now paid by this body to their memory;
>
> *Further resolved,* That expressive of the sense of the loss of these men, their names and memories remain on the published list of the officers of this Congress until the next session and the meeting for the election of their successors.

The resolutions were put to vote and were declared by the Chairman to be unanimously adopted.

The preliminary address by the Honorary President, Mr. Clark Bell, was on motion approved and ordered to be sent out with the announcements as a part of the proceedings.

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The Congress then took up the subject of "Tuberculosis" in a general discussion, at the close of which it was, on motion of Colonel Francis T. B. Fest, resolved that the next session of this Congress be held in the fall of 1910 at such place and hour as should hereafter be named by the Council or the Executive Committee of this body.

Upon motion, duly made and seconded, it was resolved that the Executive Committee of this Congress extend to the Medico-Legal Society an invitation to meet with this body at its next session and that the Medico-Legal Society be invited to name and appoint auxiliary committees to act with the committees and officers of this Congress, and that the members of the Medico-Legal Society be entitled to the floor of the Congress and to co-operate in its labors.

It was moved and seconded that a committee on nominations be named to submit a list of officers for the next Congress, which was carried unanimously.

The Chairman named as such committee on nominations the following: Hon. William H. Francis, Chairman; Clark Bell, Esq., and Col. F. T. B. Fest.

The committee submitted names for election as officers for the years 1909 and 1910:

On proceeding to ballot the following gentlemen were declared unanimously. See official list of officers elected.

The Executive Committee and the Council in joint session were by unanimous vote authorized and empowered to fill all vacancies that may hereafter occur in any office or committee; to name and appoint the standing and other committees of the Congress and to make any change in the said officers or committees deemed for the common good of the cause to which the Congress has dedicated its labors.

Mr. Clark Bell called attention to the accidental omission of the name of Dr. F. E. Daniel, late President of this Congress, duly elected in 1906 as an Honorary President, and also suggested the name of General Stillman F. Kneeland, President of the Medico-Legal Society, as Honorary Vice-President of this Congress and as a member of the Executive Committee. It was on motion so ordered.

It was moved by Dr. J. Mount Bleyer, Chairman of the Council, that the Congress be open to all the professions, to legislators, philanthropists and to all persons who are interested in the aims and objects of this Congress; and that invitations be extended to foreign governments and countries in the Western hemisphere, especially, to unite and co-operate with this body in its labors, which motion was unanimously carried.

It was also moved by Dr. J. Mount Bleyer, which motion was unanimously carried, that the annual dues be placed for members at $1 per annum, payable yearly; that the general offices of this body remain at No. 39 Broadway, New York City; that THE MEDICO-LEGAL JOURNAL be the organ of the body; that the voting on all questions in Council or in board meetings be done by proxy where the officers or members are not in attendance or at any meeting or session of the Congress or of any committee; that all former delegates to this Congress from the organizations in 1900 be asked to unite and co-operate with the officers of this body in its labors, and that delegates from governments or countries be invited to co-operate in the work of the Congress.

There being no further business, the meeting adjourned.

J. MOUNT BLEYER, M. D.,
Chairman of the Council.

CLARK BELL,
Secretary of the Council and Chairman of the Executive Committee.

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TRANSACTIONS.

MEDICO-LEGAL SOCIETY.

JANUARY MEETING AND ANNUAL DINNER, 1909.

The Medico-Legal Society held its January meeting and its annual dinner at the Hotel Brevoort, Fifth Avenue and Eighth Street, on the third Wednesday of January; the dinner at 7 P. M. and the session at 9 P. M.

President Clark Bell presided, and in the absence of the Secretary and Assistant Secretary, Judge William H. Francis was chosen and acted as Secretary *pro tem.*

The minutes of the December meeting were read and approved and the officers elected unanimously as announced in the published list in the JOURNAL. The report of Jos. F. Daly, Esq., as Treasurer was submitted to December 31st, 1908, read, approved and ordered placed on file.

The President announced that the late Treasurer of the Club had sailed for Germany on a day's notice on account of the serious illness of his only sister and his own failing health, and had not completed his report for 1908 up to November 31st, and recommended that his time to do so be extended. It was so ordered on motion.

The following were duly elected to membership on recommendation of the Executive Committee: George W. Glazer, Esq., 203 Broadway; Dr. Lewis Langstaff, 69 Seventh Avenue, Brooklyn, New York.

The Society proceeded to the installation of the officers elect, ex-President Albert Bach acting as installing officer, and made an address to each of the officers elected as each was presented for installation. There was a large company present of members and guests.

The retiring President, Clark Bell, pronounced his retiring address. General Stillman F. Kneeland, President-elect, made his inaugural address. It was on motion ordered that the addresses of the retiring and incoming president be printed in THE MEDICO-LEGAL JOURNAL.

Vice-Presidents Dr. J. Mount Bleyer, Judge Wm. H. Francis and other officers who were present made short addresses as each was installed in response to the remarks of the installing officer. Retiring President Bell introducd his successor, who acted as toastmaster for the post prandial exercises.

Speeches were made by Dr.———————— on "Medical Expert Testimony. Dr. Carl Beck responded on "Medical Jurisprudence," and to the toast of "The Society of Medical Jurisprudence," Dr. Langstaff, Dr. White, the retiring and incoming Presidents and others spoke.

The menu was in the best style of this hotel, and the occasion was most enjoyable, the company sitting to a late hour.

CLARK BELL, *President.*
I. R. ROCKWELL, *Secretary.*

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MEDICO-LEGAL SOCIETY.

FEBRUARY SESSION, 1909.

The regular monthly meeting of the Medico-Legal Society was held pursuant to call and notice at the Waldorf-Astoria on Wednesday, February 17th, 1909, at 8 o'clock P. M.

The President, General Stillman F. Kneeland, LL.D., occupied the chair, and Arthur Butler Graham, Esq., acted as Secretary of the meeting.

The reading and approval of the minutes of the January meeting of the Society was on motion laid over for future consideration.

The following were elected as active members of the Society: Lewis Langstaff, M.D., Clark Bell, Dr. Isabella Caldwell, of Brooklyn.

The President announced as the topic for discussion "Medical Expert Testimony."

Upon this subject a paper by ex-Surrogate Charles H. Becket was presented and read by the Secretary.

The President then called upon the standing Committee on Revision of Expert Testimony for a report.

This committee, through Mr. Clark Bell, its Secretary, reported progress and asked that the committee be continued, Mr. Bell making a brief statement of the condition of the subject and question as it stood at present and suggesting that the preliminary report submitted at the annual meeting and the papers to be submitted this evening at this meeting be all disposed of together, which was ordered by the chair.

Dr. Britton D. Evans stated that he had come to the Society meeting prepared to discuss the question and had prepared an extended paper upon the subject. Upon being invited by the President to read his paper he stated he preferred not to do so at the present time, but that he would take part in the discussion; and on the invitation of the President he proceeded and spoke at length upon the subject of "Medical Expert Testimony" and of the paper of ex-Surrogate Beckett.

Mr. Samuel P. Goldman, Esq., of the New York Bar, who had been announced to take part in the discussion, was not present. Mr. Bell stated that he had seen Mr. Goldman that afternoon and that he was indisposed, but had promised to come to the meeting if he was able to do so.

Mr. R. S. Guernsey, one of the early members of the Society, was present and submitted an original paper upon this subject which he had contributed many years ago and which he wished now presented to form a part of the discussion.

His paper was received and ordered placed on file.

At the suggestion of the President, it was, on the conclusion of Dr. B. D. Evans' remarks, resolved that the subject of "Medical Expert Testimony" stand over to the March meeting.

The President then introduced Mr. Pendergrast, of Brooklyn, who spoke in memory of ex-President Lincoln in connection with the momorial exercises that were going on all over the nation and whose remarks were eloquent and received with applause.

The President spoke upon the same subject, giving incidents connected with the war in which he had taken part, and of the incidents connected with his assassination.

Mr. Clark Bell also spoke in memory of Mr. Lincoln, both of whose inaugural addresses he had listened to, and paid a high tribute to his life

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and career and the high estimate in which he was held and his memory revered by the American people.

On account of the lateness of the hour, Mrs. Rorer's paper on "Preventive Medicine" was not presented and read, but the reading was postponed to a future meeting.

Mr. Clark Bell read a notice that had been received by the Society from the American International Congress on Tuberculosis, announcing that the annual meeting of that Congress would be held at the office of the Congress, No. 39 Broadway, New York City, on February 24th, 1909, at 2 o'clock P. M., and that members unable to attend might vote by proxy; and announcing that the Council, by unanimous action taken on January 29th, 1909, had recommended that the annual meeting of the Congress, noticed to be held September, 1909, be postponed until 1910, which would come before that body at its annual meeting for consideration.

The meeting then adjourned.

STILLMAN K. KNEELAND, *President.*
ARTHUR BUTLER GRAHAM, *Secretary.*

THE MEDICO-LEGAL SOCIETY.

MINUTES OF THE APRIL 1909, MEETING.

The regular monthly meeting of the Medico-Legal Society was held at the Waldorf-Astoria, in the City of New York, on the 21st day of April, 1909 at 8 P. M.

In the absence of the President of the Society, who was detained by illness, ex-President Clark Bell occupied the chair, and in the absence of the secretaries, Mrs. Sarah J. Rorer acted as Secretary *pro. tem.*

The minutes of the previous meeting were read, and upon motion, made and seconded, were duly approved.

The report of the Treasurer, showing the amount of receipts and disbursements for the period since the January meeting, was read and received.

Acting President Bell read a copy of a message which he had received from General Kneeland by telephone to the effect that the General had contracted a severe cold which prevented his leaving the house.

On the recommendation of the Executive Committee Mary Sargent Hopkins and David Healy were duly elected members of the society.

The Chairman announced the order of business, and made a brief statement of the bill before the Legislature of the State of New York as presented by the joint committee of the Bar Association and the State Medical Society, with respect to medical expert testimony on which Mr. Goodman, Judge Fetro and President Kneeland would speak.

The Chairman of the Committee on Legislation reported that the proposed legislation in respect to vivisection had met with strong opposition and would probably not pass.

The subject of the session of the American Congress on Tuberculosis for 1910 was then taken up for consideration. The invitation of the American Congress on Tuberculosis to the Medico-Legal Society to be present and take part in the proposed Congress of 1910 was presented to the meeting for action.

Upon motion, duly made and seconded, it was unanimously resolved that the invitation of the Congress to this Society be and the same is

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hereby accepted and that the members—active, honorary, corresponding and foreign—be invited to co-operate with the committees that the said Congress have appointed and with such committees as it may hereafter appoint for its work.

It was moved and carried unanimously that the members of the Society and all its sections be invited to participate and furnish titles to the papers they propose to contribute to the officers of this Society. The paper by Samuel P. Goldman relating to "Medical Expert Testimony" was then taken up for discussion.

Mr. Bell read the preliminary report of the select committee of the Society on medical expert testimony and suggested that under the circumstancs it remain open for the summer vacation of 1909, and that members be invited to continue their contributions.

Mrs. Rorer's paper. entitled "Preventive Medicine," was then called.

Mrs. Sarah J. Rorer stated that it was her understanding the discussion of her paper would close at the March, 1910, meeting.

It was moved and resolved that ex-President Clark Bell be authorized and directed to appoint delegates to represent the Society at the various domestic and foreign Congresses now announced or to be hereafter announced for this year.

Attention was then given to the proposed International Congress on Alcohol as a Medicine or a Diet and on Inebriety, to be held in London for the summer. Mr. Bell appointed T. D. Crothers, of Hartford, Conn., and Louis Lombard, Lugano, Switzerland, as such delegates to represent the Society at the Congress.

It was resolved that the London Congress be notified of the wish of this body that the next International Congress on Alcohol and Inebriety be held in the United States, either in the City of New York or at Atlantic City, whichever place could be reached best by the officers and delegates.

The acting President then called attention to the proposed contract between the Medico-Legal Society and THE MEDICO-LEGAL JOURNAL respecting the publication of THE MEDICO-LEGAL JOURNAL for the years 1909 and 1910, Vols. 27 and 28.

After discussion it was voted that the officers of the Society—the President or either of its Vice-Presidents and the Treasurer—are hereby authorized to execute a contract in behalf of the Medico-Legal Society with THE MEDICO-LEGAL JOURNAL providing for the publication of that journal, Volumes 27 and 28, the journals to be sent to the active members at $1 per annum in advance and 150 copies be subscribed for by the Exchange List and the Corresponding List. The contract to be upon the same terms and conditions as the prior contract made and existing between the Society and the JOURNAL.

A paper was then read by Mr. Clark Bell on "Burials at Sea." General discussion followed.

Papers were read by title by Hon. R. L. Williams, Chief Justice of the Supreme Court of Oklahoma, on "The United States Judicial History" and on "Medical Expert Testimony," by Mr. Francis Drewry, of Petersburg, Va.; by Dr. Frederic E. Clifft, of Utah, on "Alcohol as a Medicine or a Diet"; by Dr. U. O.B. Wingate, of Milwaukee, Wis., on "Medical Expert Testimony," and by ex-Mayor Smith Ely, of New York, on "Longevity."

Mr. Clark Bell submitted a paper on "The Judicial History of the Supreme Court of Wyoming," and by Dr. Kornfeld on "The Simulation of Insanity of King David'" which were read before the Society.

Mr. Bell called attention to the vacancies in the Vice-Presidencies of this body in the States of New Jersey and Montana, and suggested that

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they be filled before the summer vacation. He therefore nominated John Lochner, of Jersey City, for New Jersey, and Dr. W. H. Haviland, of Helena, Mont., for Montana.

It was unanimously resolved that the rules be suspended and the Society proceed to fill the vacancies in Montana and New Jersey. On proceeding to election, Dr. John D. Lochner, of Jersey City, and Dr. W. H. Haviland, Butte, Mont., were duly elected Vice-Presidents for New Jersey and Montana, respectively.

The meeting then adjourned.

CLARK BELL,
President pro tem.

SARAH J. RORER,
Secretary pro tem.

MEDICAL EXPERT TESTIMONY.

DISCUSSION OF THE PAPER OF MR. SAMUEL P. GOLDMAN AND OF THE PRINTED REPORT OF THE SELECT COMMITTEE OF THE MEDICO-LEGAL SOCIETY,

MAY MEETING OF 1909.

Mr. Samuel P. Goldman said:

The advantages of the legislation proposed in the paper submitted at an earlier meeting of this Society have been fully gone into in that paper. Likewise, the criticism of the various proposals of legislation made by other persons who are considering this subject.

Particular attention is now directed to the bill proposed by the Bar Association of the State of New York. The report of the committee which recommended the adoption of this bill was unanimously approved by the State Bar Association at its recent meeting. I have been informed that the bill prepared by this committee has been presented to the Legislature and failed of enactment. The same objections and criticisms to be found in the paper read at a previous meeting of this Society were urged before the Legislature with great force, and evidently sufficed to satisfy them of the impracticability of the State Bar Association's proposal.

The constitutional difficulties about prescribing a limit to the right of a defendant to produce witnesses whose testimony shall be presented to the jury upon the same plan as that of the State's witnesses are really insurmountable, while it must appeal to the common sense and judgment of the generality of men that if three experts are selected by the court in each case, this arbitrary limit will serve as an example to the attorneys in the case, which by its own force will serve the purpose for which legislation will be utterly impossible.

As quality is always to be desired in the matter of testimony, and quantity rarely, the natural desire that will arise in the minds of counsel to follow the example of the court, will serve the double purpose of limiting the quantity and enhancing the quality.

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LONGEVITY.

The following letter has been sent out to a number of prominent names, whose replies may be published in this journal:

MEDICO-LEGAL JOURNAL.
Office of the Editor,
39 BROADWAY.

NEW YORK,.....1909.

My Dear Colleague:

I mail you the December Number of THE MEDICO-LEGAL JOURNAL herewith and call your attention to the prospectus of Vol. 26 and to an article by the Hon. Smith Ely, ex-Mayor of New York, on "Longevity and the Relation of Old Age to Useful Work," at page 173 *et seq.* I also send you the December Number of 1907 and call your attention to an article at page 247, one at page 257, one at 281, "Notes on Longevity," page 295, relating to the subject of "Longevity," and especially the relation of old age to useful work and the powerful influence of the mind in its relation to longevity.

I would feel obliged if you would contribute your brief views upon these subjects for publication in THE MEDICO-LEGAL JOURNAL, as I regard it one of great importance. The Medico-Legal Society has decided to solicit contributions of this character, with the view of forming a symposium upon this special matter. The recent action of the actuaries of life insurance shows a very decided and pronounced change of mind on the part of these observers, not only as to the span of human life, but as to other subjects connected with the usefulness of man in extreme old age. It is a lamentable fact that the return of our census as published by the Census Bureau throws no light upon the living centenarians. In many of the states the limit in the published reports is to the age of 60 and it is now almost a scientific necessity that this period should be advanced in the published reports to at least 100 and perhaps 110 years of age.

In the City of New York the only official knowledge we can obtain of centenarians is by the reports of their deaths or by personal research by individuals and the public press. Dr. William H. Guilfoy, Register of Records, has kindly furnished me at my request names, sex and nationality of the centenarians who died in this city from July 1st, 1907, to July 1st, 1908. I have endeavored to obtain from him a list of the deaths of those reported at 90 years and over, but under 100, but he informs me that it would require an examination of over 70,000 certificates to give me this information. The Census Bureau should be encouraged to make their reports of living centenarians, as it is now a very important subject of scientific inquiry in its relation to the actual span of human life.

I will thank you for your brief views on this subject and especially to the circulars sent out and published at page 295 of the December Number, 1907.

Very faithfully yours,

CLARK BELL.

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GEORGE MEREDITH.

No novelist in England in our day seems to have taken a stronger hold on English literary men and women than this most esteemed and gifted man, sometimes called by those who prized him highest "The Incomparable Novelist."

Meredith never made concessions to popular taste, and seemed never to have been a popular author. He cannot be classed with Dickens, Thackeray or George Elliot.

It cannot be denied that many of his works will be called great, but not by the multitude of readers, when in contrast with the abler names, among English authors from Fielding, along the line of the most popular, to Wilkie Collins. Only the most cultured of the English public have read Meredith's works. They were *terra incognita* this side the Atlantic, save to a select and critical few. His best books, "The Ordeal of Richard Feverel," "One of the Conquerors," "The Tale of Chloe," "Mary Richmon," and half a dozen more found perhaps a few admirers here. They will be read now that he is gone, perhaps.

He wrote realistically of the men and women of his time, and conception, in his best style.

The best critic of Meredith was one younger than he, who is with him "in the beyond" now (Oscar Wilde) in his "Soul of Man Under Socialism," to which Mr. Forbes Lindsey recently called attention in the New York *Times*. What Wilde says of him may well be called "An Eulogy":

"A true artist takes no notice whatever of the public. The public are to him non-existent. He has no poppied or honeyed cakes with which to give the monster sleep or sustenance. He leaves that to the popular novelist. One incomparable novelist we have now in England, Mr. George Meredith. There are better artists in France, but France has no one whose view of life is so varied, so large, so imaginatively true. There are tellers of stories in Russia who have a more vivid sense of what pain in fiction may be. But to him belongs philosophy in fiction. His people not merely live, but they live in thought. One can see them from myriad points of view. They are suggestive. There is soul in them and around them. They are interpretative and symbolic. And he who made them, those wonderful quickly moving figures, made them for his own pleasure, and has never asked the public what they wanted, has never cared to know what they wanted, has never allowed the public to dictate to him or influence him in any way, but has gone on intensifying his own person-

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ality, and producing his own individual work. At first none came to him. That did not matter. Then the few came to him. That did not change him. The many have come now. He is still the same. He is an incomparable artist."

JOURNAL NUMBERS OUT OF PRINT.

Nos. 1 and 2 of Vol. I, the MEDICO-LEGAL JOURNAL, are and have been out of print for some years.

We offered $2.50 for copies of No. 1, and $1.50 for No. 2, and received only a few occasionally. We have reproduced No. 1, Vol. I, and will furnish it at $2.50 to complete sets.

We are arranging to reproduce No. 2, of Vol 1, and will do so if we get orders to fill volumes, and will furnish Nos. 1 and 2, if we can get 100 orders both for $2.50 over the original price, 75 cents each, or $5.00. We wish to simply get back the outlay of the cost of reproductions.

The recent contributions of Mr. Samuel P. Goldman and Dr. F. W. Anthony, of Haverhill, Mass., lend additional interest to the discussion, and copies will be sent to leading alienists and journals for notice and review.

The Editor of the Journal hopes to be able during this summer vacation to visit some of the hospitals for the insane, in the American States and perhaps the Canadas, and make brief reports of their work.

The question of medical expert testimony arouses unusual attention and interest among alienists, and contributions to the discussion now progressing for the symposium and for the consideration of the select committe is solicited.

The whole will be brought out in a symposium.

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THE CASE OF PATRICK.

This unfortunate man deserves the sympathy of all thoughtful minds.

That he is not guilty of the crime for which he is convicted is now well known. Indeed, it has been demonstrated scientifically. and is susceptible of absolute demonstration. Certain glaring, undeniable facts exist, which have come to light since his conviction, that have great significance on the merits of the case.

His wife gave the names to the public of prominent lawyers who received nearly a quarter of a million of Mr. Rice's money to secure his conviction; so the trustees of that estate have stated in legal proceedings. We have investigated the truth of her statements and found them to be correct.

He was indicted for the forgery of the Rice will, but has never been tried on that charge. The subscribing witnesses to that will have both sworn positively that they saw Mr. Rice sign it, that he understood it, and that they signed it in his presence and at his request as subscribing witnesses on the day of its date. They are reputable members of the Bar, in this city, in active practice of the law. They were indicted for their part of the transaction, but have never been tried on that indictment, in spite of their constant and repeated efforts to have a trial. Their evidence as to the proper execution of the will by Rice is on the files of the Court here.

The jury who tried Patrick, the Judge who sentenced him, and the Judges of the Court of Appeals who upheld the conviction all believed that Patrick forged the will, and all the people of the city supposed and believed that he had forged it at the time of his trial. He has never been tried for that offence, and the fact seems now beyond question that he never forged the will.

Jones was promised and granted immunity for swearing to a statement as to the manner of the death of Rice, which is an incredible statement and could not possibly have been true.

A committee of eminent experts selected from the Medico-Legal Society, after a full, careful and thorough investigation and after reading all the evidence in the case, unanimously reported that Rice died from natural causes, and that the evidence of Jones was false, incredible and impossible.

A public demonstration was made on the body of a dead man, under the auspices of the Medico-Legal Society before a body of

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embalmers in the city of New York, showing that the embalming fluid, by the brachial artery, by the same process used on Rice did enter the lungs, which was witnessed by over 50 experts on this public trial and test. The evidence on the trial of a medical man being that it could not and did not enter the lungs. The experiment was an absolute demonstration of the innocence of Patrick of the offence for which he was convicted.

No application was made to the Governor for pardon except the preliminary one made by the Medico-Legal Society, which was arrested by an ill-advised effort to produce Jones as a witness, which only smirched Patrick's character, and it was brought by his brother-in-law, over his protest, in spite of and against the highest legal advice and the counsel who had effected an appeal to the United States Court from the conviction. The Medico-Legal Society's application for pardon was arrested by this unwise proceeding to have Jones confess his perjury. His perjury was plain and needed no confession. No application for pardon has been made to Governor Hughes by Mr. Patrick or his advisers. He is innocent of the crime for which he was convicted beyond a doubt or question, and yet is lying in prison on a commutation of sentence to imprisonment for life, applied for over his most earnest protest, by his brother-in-law without his consent or authority, so as to insure the incarceration of Patrick, which would or might reopen the disposition of the large estate and compel the trial of the indictment of Patrick of the forgery of the will and of the two lawyers, who were the attesting witnesses of the will itself. All the indictments are still pending and untried.

Governor Hughes would have pardoned at once on an inspection of the record, and the Medico-Legal Society will demonstrate in the presence of the Governor on a cadaver that the embalming fluid, by the process used in Rice's case, by the brachial artery, does in fact and must enter the lungs. The Governor has the right to act in this case on the appeal of the Medico-Legal Society.

Science demonstrates the innocence of Patrick of killing Rice, and his further confinement in prison is not only a miscarriage of justice, but is certain to result in a conviction in the public mind that this unfortunate man is suffering for a crime of which he is innocent.

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REMARKABLE HEADS OF THE ELK AND THE MOOSE.

Mr. C. N. Barrick, of Manitoba, son of Dr. E. J. Barrick, former President of the American International Congress on Tuberculosis, of Toronto, Canada, has sent the Editor of this journal three heads of animals killed in the mountains near his ranch for sale.

They are superb specimens and the two elks are very remarkable. Both are larger and finer than any now in any museum in North America, and one the most symmetrical and perfect of any known preserved head of the male elk, perhaps, in the world. They are both unique examples of this splendid animal.

The head of the male moose is a superb one, but not the largest known, as the elk heads are.

They are placed on exhibition at No. 236 West Forty-second street, in this city, in charge of Madame the Countess Von Boos-Farrar, and the Editor of this journal invites correspondence of any who wish to purchase them. There is one head in this city in a private collection, a rival of the larger elk in size, but not in points, for which the owner has refused $1,000. They are splendid examples.

Several articles intended for this number have been, although in type, pushed over into the new Volume 27, June number. This is not the fault of the Editor of this journal, or its officers. The responsibility rests on the printer, and is in violation of existing contracts. The June number will follow this issue closely.

The Judicial History of the following States and Territories will be continued in the June and September numbers, Nos. 1 and 2 of Volume 27.

The Indian Territory, with the biographies of its Judges and their portraits.

The Territory of Oklahoma.

The history of the Five Civilized Tribes; also the Osage Nation, with contributions from some of the Judges of the Supreme Court of those nations, each of whom had a judicial system and a national government separate and distinct, and a written constitution terminated by the admission of the State of Oklahoma into the American Union.

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The Judicial History of the following States, with their territorial early judicial history, will be commenced and continued as fast as the portraits and biographies of the said States can be obtained.

The State of Wyoming, which has been delayed by the ill health of Mr. Chief Justice Potter.

The States of Arkansas, of Nebraska, of Montana, the Dakotas, California, Washington and others of the States, where the work is progressing, preferring those who first supply the portraits and biographies.

Strenuous efforts will be made to complete the biographies of all the newly elected Judges of the Supreme Court of New York, who are responding in the First, Fourth and Seventh Judicial Districts.

The Departments of Journal and Books and of Magazines will be carried over to the June and September numbers, so as to handle some published earlier in the coming volume.

The subject of the Indeterminate Sentence of Convicted Criminals will be found in an opening paper in the present number, in which the Judges of the Criminal Courts will be asked to take part, as well as the Bar, and Students of Criminology—

ANNUAL MEETINGS.

AMERICAN INTERNATIONAL CONGRESS ON TUBERCULOSIS—In joint session with the Medico-Legal Society of New York. Next meeting will be held (place and date to be hereafter announced. Officers for 1909-10 elected March, 1909: President, George R. Tabor, M. D., Late Health Officer, Dallas, Texas; Secretary, E. S. McKee, M. D., Cincinnati, Ohio; Clark Bell, Chairman Executive Committee and Secretary of Council, 39 Broadway, New York City.

THE AMERICAN ACADEMY OF OPHTHALMOLOGY AND OTOLARYNGOLOGY—Annual Meeting at New York, N. Y., September 27, 28 and 29, 1909. G. F. Suker, M.D., Secretary, Chicago, Ill.; Otto J. Stein, M.D., President, Chicago, Ill.

THE ASSOCIATION OF MILITARY SURGEONS OF THE UNITED STATES—Annual Meeting at Washington, D. C., October 5-8, 1909. Maj. James Evelyn Pilcher, U. S. A., Secretary. Richmond, Va.; Admiral P. M. Rixey, U. S. N., President, Washington, D. C.

CONGRESS OF AMERICAN PHYSICIANS AND SURGEONS—Next Meeting at Washington, D. C. (date not yet decided), 1910. W. H. Carmalt, M.D., Secretary, New Haven, Conn.; Reginald H. Fitz, M.D., President, Boston, Mass.

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AMERICAN ASSOCIATION OF OBSTETRICIANS AND GYNECOLOGISTS—Annual Meeting at Fort Wayne, Ind., Sept. 21, 22 and 23, 1909. William Warren Potter, M.D., Secretary, 238 Delaware Avenue, Buffalo, N. Y.; William Humiston, M.D., President, 536 Rose Building, Cleveland, O.

AMERICAN OPHTHALMOLOGICAL SOCIETY—Annual Meeting at New London, Ct., July 14 and 15, 1909. S. B. St. John, M.D., Secretary, Hartford, Conn.; W. M. Sweet, M.D., President, 1205 Spruce St., Philadelphia, Pa.

AMERICAN ELECTRO-THERAPEUTIC ASSOCIATION—Annual Meeting at New York City, Sept. 14, 15 and 16, 1909. J. Willard Travell, M.D., Secretary, 27 East 11th St., New York, N. Y.; Edward C. Titus, M.D., President, 127 West 11th St., New York, N. Y.

AMERICAN ASSOCIATION OF RAILWAY SURGEONS—Annual Meeting at Chicago, Ill., October 20, 21 and 22, 1909. H. B. Jennings, M.D., Secretary, Council Bluffs, Iowa; J. R. Hollowbush, M.D., President, Rock Island, Ill.

NEW MEXICO MEDICAL SOCIETY—Annual Meeting at Roswell, N. Mex. (date not yet decided), 1909. G. S. McLandress, M.D., Secretary, Albuquerque, N. M.; G. K. Angle, M.D., President, Silver City, N. M.

OREGON STATE MEDICAL ASSOCIATION—Annual Meeting at Seattle, Wash., July 19, 1909. William House, M.D., Secretary, 314 Oregonian Building, Portland, Ore.; W. H. Byrd, M.D., President, Salem, Ore.

THE MEDICAL SOCIETY OF THE STATE OF PENNSYLVANIA—Annual Meeting at Philadelphia, Pa., September, 1909. Cyrus Lee Stevens, M.D., Secretary, Athens, Pa.; George W. Wagoner, M.D., President, Johnstown, Pa.

SOUTH DAKOTA STATE MEDICAL ASSOCIATION—Annual Meeting at Aberdeen, S. D., October, 1909. R. D. Alway, M.D.. Secretary, Aberdeen, S. D.; S. A. Brown, M.D., President, Sioux Falls, S. D.

UTAH STATE MEDICAL ASSOCIATION—Annual Meeting at Ogden, Utah, October 5 and 6, 1909. W. Brown Ewing, M.D., Secretary, Salt Lake, Utah; Ezra C. Rich, M.D., President, Ogden, Utah.

VERMONT STATE MEDICAL SOCIETY—Annual Meeting at White River Jct., Vt., October 14 and 15, 1909. C. H. Beecher, M.D., Secretary, Burlington, Vt.; C. W. Peck, M.D., President, Brandon, Vt.

MEDICAL SOCIETY OF VIRGINIA—Annual Meeting at Roanoke, Va., October 5-8, 1909. Landon B. Edwards, M.D., Secretary, Richmond, Va.; Stuart McGuire, M.D., President, Richmond, Va.

WASHINGTON STATE MEDICAL SOCIETY—Annual Meeting at Seattle, Wash., July 20, 1909. C. H. Thomson, M.D., Secretary, Seattle, Wash.; C. A. Smith, M.D., President, Seattle, Wash.

STATE MEDICAL SOCIETY OF WISCONSIN—Annual Meeting at Madison, Wis., June 30, July 1 and 2, 1909. C. S. Sheldon, M.D., Secretary, Madison, Wis.; G. E. Seaman, M.D., President, Milwaukee, Wis.

THE WEST VIRGINIA STATE MEDICAL ASSOCIATION—Annual Meeting at Elkins, W. Va., October, 1909. T. W. Moore, M.D., Secretary, Huntington, W. Va.; Fleming Howell, M.D., President, Clarksburg, W. Va.

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WYOMING STATE MEDICAL SOCIETY—Annual Meeting at Cheyenne, Wyo., August, 1909. W. H. Roberts, M.D., Secretary, Sheridan, Wyo.; G. L. Strader, M.D., President, Cheyenne, Wyo.

INTERNATIONAL MEDICAL CONGRESS—Sixteenth Triennial Meeting at Budapest, August 29 to September 4, 1909. Prof. Emil De Grosz, M.D., Secretary; Prof. C. Muller, M.D., President.

BRITISH MEDICAL ASSOCIATION—Seventy-seventh Annual Meeting at Belfast, Ireland, July, 1909. Guy Elliston, M.D., Secretary, 429 Stand, London; Sir W. Whitla, M.D., President, Belfast, Ireland,

DELAWARE STATE MEDICAL SOCIETY—Annual Meeting at Dover, Del., October 8, 1909. G. W. K. Forrest, M.D., Secretary, 1000 Jackson St., Wilmington, Del.; L. A. H. Bishop, M.D., President, Dover, Del.

HAWAIIAN TERRITORIAL MEDICAL SOCIETY—Annual Meeting at Honolulu, H. T., November, 1909. W. G. Rogers, M.D., Secretary, Honolulu, H. T.; F. Howard Humphries, M.D., President, Honolulu, H. T.

INDIANA STATE MEDICAL ASSOCIATION—Annual Meeting at Terre Haute, Ind., October, 1909. F. C. Heath, M.D., Secretary, Indianapolis, Ind.; Geo. D. Kahlo, M.D., President, French Lick, Ind.

IDAHO STATE MEDICAL SOCIETY—Annual Meeting at Seattle, Wash., July 19, 1909. Ed. D. Maxey, M.D., Secretary, Boise, Idaho; J. L. Stewart, M.D., President, Boise, Idaho.

KENTUCKY STATE MEDICAL ASSOCIATION—Annual Meeting at Louisville, Ky., October, 1909. Arthur T. McCormack, M.D., Secretary, Bowling Green, Ky.; John G. Cecil, M.D., President, Louisville, Ky.

THE MICHIGAN STATE MEDICAL SOCIETY—Annual Meeting at Kalamazoo, Mich., September 15 and 16, 1909. B. R. Schenck, M.D., Secretary, 502 Washington Arcade, Detroit, Mich.; A. I. Lawbraugh, M.D., President, Calumet, Mich.

MINNESOTA STATE MEDICAL ASSOCIATION—Annual Meeting at Winona, Minn., October 6, 1909. Thomas McDavitt, M.D., Secretary, St. Paul, Minn.; Cornelius Williams, M.D., President, St. Paul, Minn.

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American Journal of Insanity,
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Archives of Pediatrics,
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American Journal of Psychology,
American Chemical Jour.,
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Annales Medico-Psychologique,
Archivio di Psi Sci pen et antro orim,
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Albany Law Journal,
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Amer. Jour. of Med. Sci.,
Applied Microscopy,
American Economist,
American Lawyer,
Astrologica. Journal,
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American X-Ray Journal,
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Societie D'Anthropologie, Brussels,
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Society of Psychical Research, J. H. Hyslop, 519 West 149th St., New York,
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Société de Médecine Mentale de Belgique, Brussels, Belgium,
Sunnyside, 51 W. 13th St., New York,

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Word (The), H. W. Percival, Editor, 244 Lenox Ave., N. Y.,
Union Medicale du Canada, 268 Rue St. Denis, Montreal, Que.,
Western Undertaker, 263 Washington Boulevard, Chicago, Ill.,

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Zeitschrift fuer Psychiatrie,
Zeitschrift fuer Medizinal Beamte.

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THE MEDICO-LEGAL JOURNAL.

Prospectus for Volume XXV.

A quarter of a century in Medical Jurisprudence.

This veteran Journal enters upon its first quarter of a century with the completion of its No. 1 of Volume XXV, in June of this year.

Under the same editorial management, Volume XXV will round up a quarter of a century of work devoted to the science of Medical Jurisprudence, and has kept steady step with the progress of that science; not only on the American Continent, but with the study of Forensic Medicine in all the countries of the world.

The Legal Profession, the Bench and the Bar, have contributed to its labors and success.

The Medicol Profession, Alienists, Medico-Legal Jurists, the ablest men in Medicine, have stood steadfastly at the side of its editor during these eventful years in the history of Medical Jurisprudence.

The special features of the Journal's work that will most attract the Bench and Bar in this coming volume are, that it will complete the judicial history of the Supreme Court of New York, with portraits and biographical sketches of the Bench of all the Judicial Districts of that State.

These portraits and biographies have been contributed by the Judges themselves. All will be included that can be secured.

It will be the result of ten years of incessant labor in obtaining portraits and biographies by the editor.

The Court of Appeals will be also produced in a brochure by itself; and the Journal will present the Court of Appeals of 1907 as now constituted in a group, suitable for framing as an ornament to any lawyer's office.

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Groups will also be made of the new Judges who take their seat in 1907, and this will be done in all the judicial districts of the State.

To the District Attorney, the Trial Judge, this Journal will be of great interest and value; as the professions now recognize the greater interest which the science of medical jurisprudence now commands on the public attention, before the tribunals, and especially in the public press.

The Medical Profession are giving closer attention to Forensic Medicine than ever before.

The Medico-Legal Expert and Jurist must now study and should be versed in the whole field, of the relation of law to the subject, whether he be a medical man or not.

The ablest medical experts are often, and should now be, as well educated on the legal side of the question, as the jurists themselves. The evolution of the science demands and compels it.

The problems how to meet existing evils in Medical Expert Evidence will be at once the forum of discussion in Volume XXV of this Journal. The public exigency now demands a change of the law as to the Expert Medical Evidence. The evils of the present system are intolerable. They threaten the existence and undermine the influence and usefulness of the Medical expert.

Every domain and branch of the science will be within the domain of our endeavor. The various departments of the Science will receive the same careful and conscientious study as has been given in the past.

The Editor enters upon this eventful year of the Journal's history with a profound determination to make this coming volume one which will round up the progress of Medical Jurisprudence in our country, during the quarter of a century since its first issue, and reflect the work and the labors of those who have borne the heat and burden of the day in their time, and who have contributed so much to the questions of the hour as they have ariser.

CLARK BELL.

New York, June, 1907.

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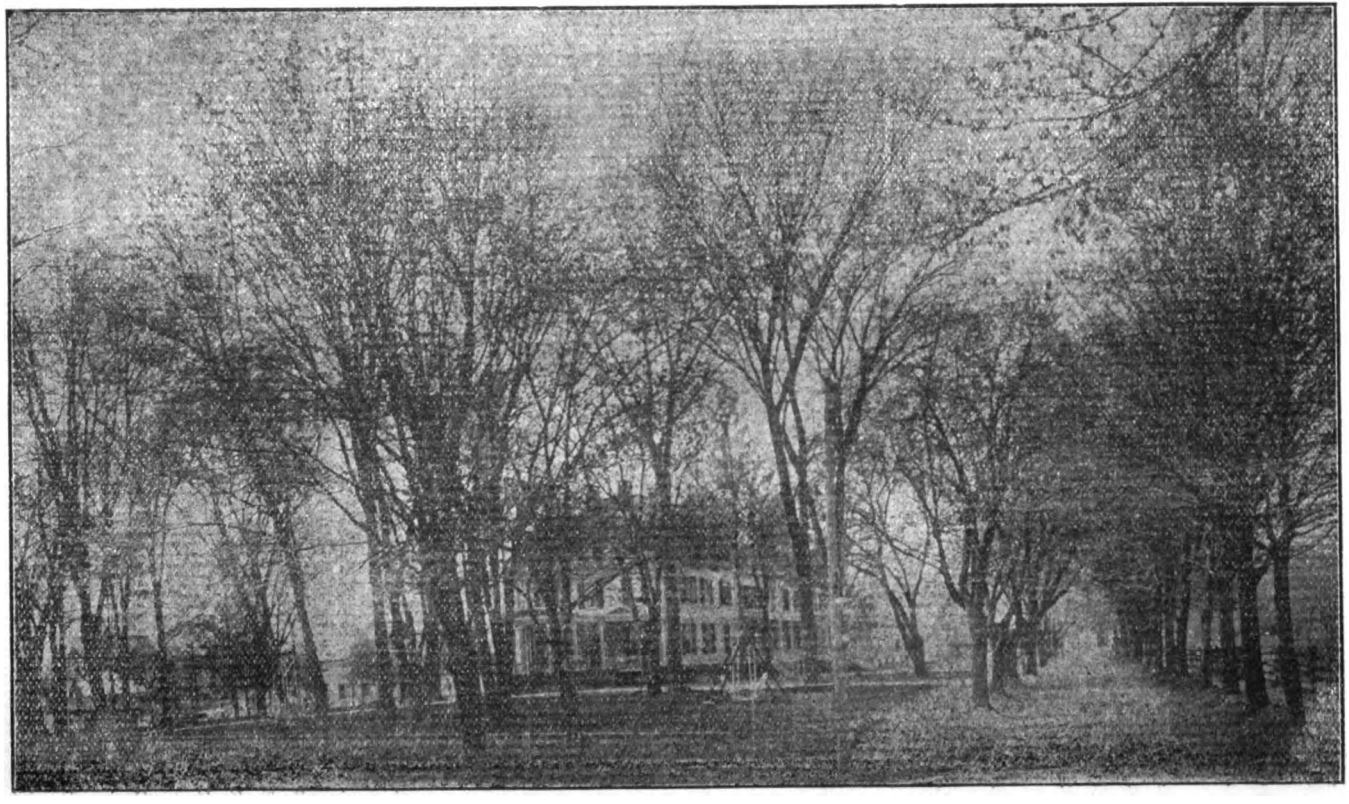

SAHLER SANITARIUM.

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PROSPECTUS TO VOL. 26 MEDICO-LEGAL JOURNAL

The Editor announces Volume 26 of the MEDICO-LEGAL JOURNAL with pleasure and with pride.

It resumes and continues the work of a quarter of a century devoted to a study of the Science of Medical Jurisprudence in America, and a general view of its progress among the nations of the world.

As the organ of the Medico-Legal Society it has representative men as Vice-Presidents in nearly every country on the globe.

It will keep in touch with kindred societies in Europe, in the countries of the Western Hemisphere; and the Journal will note the progress of the Science in all lands and countries.

This volume will continue the publication of the History of the Supreme Court of the States and Provinces of North America, and complete the Judicial History of the State of New York; the New York Court of Appeals; the old General Term of that Court, and the Appellate Divisions of the Supreme Court, with the portraits and biographies of the Judges of the Supreme Court of the nine Judicial Districts of the State, and especially of the newly elected Justices of the Supreme Court, elected under the last amendment to the Constitution of the State.

The Medico-Legal Society is now engaged in an investigation upon how to rescue "Medical Expert Testimony" from the degradation into which it has fallen. A Committee of Judges now on the Supreme Bench in the various States, and ex-Judges, under the Chairmanship of Hon. L. E. Emery, Chief Justice of the Supreme Bench of Maine, has this subject in charge and contributions made to it will be published in the Journal, and sent to that Committee for consideration and report.

Symposiums are now nearly completed, and will be concluded in this volume, on the following subjects, to which contributions are still solicited, and will be published in the Journal and also in Brochures if called for by the professions at slight cost.

ALCOHOL AS A DIET OR FOR MEDICAL USE.

LONGEVITY, AND THE RELATION OF OLD AGE TO USEFUL WORK.

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PSYCHO-THERAPEUTICS: OR THE RELATION OF THE MIND TO HEALTH AND DISEASE.

EXPERIMENTATION ON ANIMALS FOR SCIENTIFIC ENDS.—VIVISECTION, ETC.

THE AMERICAN INTERNATIONAL CONGRESS ON TUBERCULOSIS of 1909, adjourned from Chicago from June 1st, 2nd an d 3rd, 1908, to 1910.

Two papers contributed to the Chicago Congress, read before the New York Medico-Legal Society, at its June Session, have appeared in this Journal.

One by Professor MIGUEL BOMBARDA, Secretary Lisbon International Medical Congress of 1906, on "PREVENTIVE LEGISLATION AGAINST TUBERCULOSIS."

One by Professor Dr. OTTO VON SCHROEN of the Royal University of Naples, on "The Phthisiogeneus Microbe of Phthisis of the Lung."

Both these gentlemen are Honorary Presidents of the American Internationl Congress on Tuberculosis, of which Dr. George R. Tabor, late Health Officer of Texas, is the President; and Dr. E. S. McKee, of Cincinnati, O., is Secretary, and contributions to the Congress of 1909 are solicited on the following themes:

Preventive Legislation against Tuberculosis.

The Pathology and Bacteriology of Tuberculosis.

National, State and Municipal Sanitariums for the Consumptive, their Utility and Necessity.

The Relation of Human to Bovine Tuberculosis.

The Propriety and Need for the Use of Tuberculin, and its Abolition as a Test in Cattle and in Man.

Hydrophobia or Rabies—with the Work of a Select Committee, Arising out of the Case of Mr. Wm. H. Marsh, of Brooklyn; and also a Committee on Dogs and what shall be done with Vagrant Dogs for the Protection of the Public Against Rabies.

Such of these contributions as relate to tuberculosis, if made, will be laid before the Executive Committee for the use of the Congress of 1910, and published in advance of its session if the Committee deems it best; to go before that Congress as a part of its proceedings and work, and sent in advance to its members and officers.

The Psychological Section of the Medico-Legal Society has received larger attention than any other branch of scientific

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inquiry, and this volume will contain contributions to work on the following themes:

The Medical Jurisprudence of Insanity.

Medico-Legal Cases.

Toxicological Questions.

Hypnotism, Suggestion, Psychological Studies and Questions.

Mental Science, Psychical Research, and Mental Medicine.

The Medico-Legal Society of Belgium has announced an International Congress on Medical Jurisprudence for 1910, and invited the co-operation of the President, Officers and Members of the New York Medico-Legal Society. This invitation will receive a strongly sympathetic responsive endorsement from the Medico-Legal Society of New York, and an Auxiliary Committee will, no doubt, be formed here, of which this Journal will be the organ and exponent and to which members will be invited to write and contribute.

The Psychological Section is open to all Students of the Science, at an annual subscription of $1.50 per annum, and the Journal will go to the members for this sum, which is only half the price of its regular subscription.

THE MEDICO-LEGAL JOURNAL is furnished to all members and delegates to the International Congress in 1908, 1909 and 1910—or any of the previous Congresses at half price, if paid for in advance, of $1.50 per annum.

This Journal will from time to time publish Brochures and Bulletins of the work or contributions on the special themes and studies as announced.

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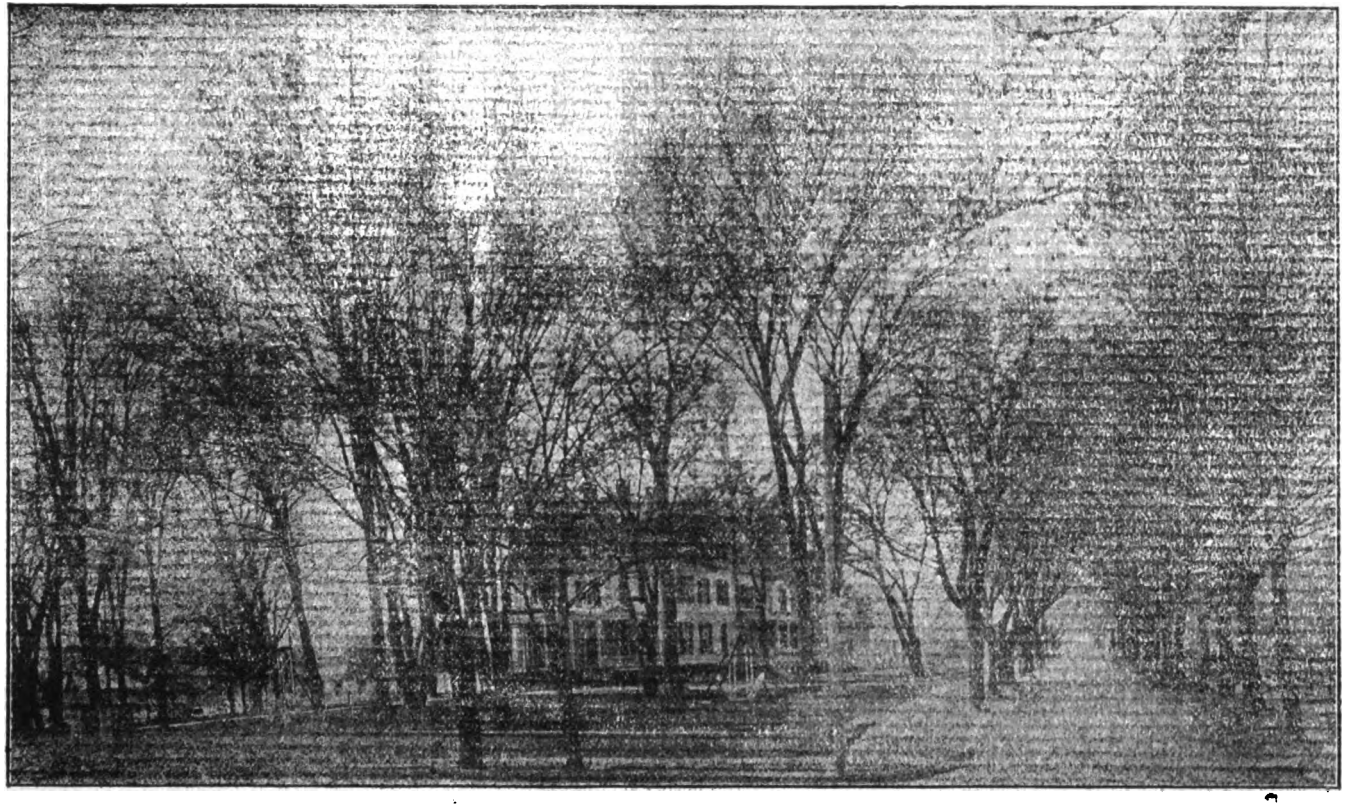

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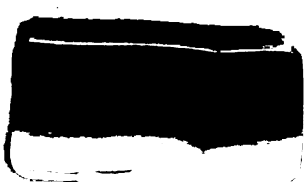

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